No. 134, Original

In The

Supreme Court of the United States

STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

REPORT OF THE SPECIAL MASTER
APPENDICES

RALPH I. LANCASTER, JR.
Special Master

April 12, 2007

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APPENDIX A
Proposed Decree

STATE OF NEW JERSEY

v.

STATE OF DELAWARE

No. 134, Original

Decided _____

Decree Entered _____

Decree effecting this Court's Opinion of _____,

___ S. Ct. ___ (2007).

DECREE

The Court having exercised original jurisdiction over this controversy between two sovereign States; the issues having been tried before the Special Master appointed by the Court; the Court having received briefs and heard oral argument on the parties' exceptions to the Report of the Special Master; and the Court having issued its Opinion on all issues announced in ___ S. Ct. ___ (2007),

IT IS HEREBY ORDERED, ADJUDGED, DECLARED AND DECREED AS FOLLOWS:

1. (a) The State of New Jersey may, under its laws, grant and thereafter exercise riparian jurisdiction over rights for the construction, maintenance and use of wharves and other riparian improvements appurtenant to the eastern shore of the Delaware River within the twelve-mile circle and extending outshore of the low water mark; and further

(b) The State of Delaware may exercise, under its laws, full police power jurisdiction over the construction, maintenance and use of those same wharves and other improvements appurtenant to the eastern shore of the Delaware River within the twelve-mile circle insofar as they extend outshore of the low water mark onto its sovereign territory.

2. Except as hereinbefore provided, the motions for summary judgment of both the States of New Jersey and Delaware are denied and their prayers for relief dismissed with prejudice.

3. The party States shall share equally in the compensation of the Special Master and his assistants, and in the costs of this litigation incurred by the Special Master.

4. The Court retains jurisdiction to entertain such further proceedings, enter such orders, and issue such writs as it may from time to time deem necessary or desirable to give proper force and effect to this Decree or to effectuate the rights of the parties.

APPENDIX B
Compact of 1905

Act of January 24, 1907, Ch. 394, 34 Stat. 858 (1907)

CHAP. 394. – An Act Giving the consent of Congress to an agreement or compact entered into between the State of New Jersey and the State of Delaware respecting the territorial limits and jurisdiction of said States.

Whereas commissioners duly appointed on the part of the State of New Jersey and commissioners duly appointed on the part of the State of Delaware, for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two States, have executed certain articles, which are contained in the words following, namely:

"First. Whereas a controversy hath heretofore existed between the States of New Jersey and Delaware relative to the jurisdiction of such portion of the Delaware River as is included within the circle of twelve-mile radius, an arc of which constitutes the northern boundary of the State of Delaware, and it is the mutual desire of said States to so settle and determine such controversy as to prevent future complications arising therefrom; and

"Whereas there is now pending in the Supreme Court of the United States a cause wherein the said State of New Jersey is the complainant and the said State of Delaware is the defendant, in which cause an injunction has been issued against the State of Delaware restraining the execution of certain statutes of the State of Delaware relating to fisheries in said river, which said litigation hath been pending for twenty-seven years and upward; and

"Whereas for the purpose of adjusting the differences between the said two States arising out of said conflict of

jurisdiction, Edward C. Stokes, Robert H. McCarter, Franklin Murphy, and Chauncey G. Parker have been appointed commissioners on the part of the State of New Jersey by joint resolution of the legislature of said State, and Preston Lea, Robert H. Richards, Herbert H. Ward, and George H. Bates have been appointed commissioners on the part of the State of Delaware by joint resolution of the general assembly of said State, to frame a compact or agreement between the said States and legislation consequent thereon, to be submitted to the legislatures of said two States for action thereon, looking to the amicable termination of said suit between said States now pending in the Supreme Court of the United States, and the final adjustment of all controversies relating to the boundary line between said States, and to their respective rights in the Delaware River and Bay: Now therefore,

"The said State of New Jersey, by its commissioners above named, and the said State of Delaware, by its commissioners above named, do hereby make and enter into a compact or agreement between said States as follows:

"ARTICLE I. Criminal process issued under the authority of the State of New Jersey against any person accused of an offense committed upon the soil of said State, or upon the eastern half of said Delaware River, or committed on board of any vessel being under the exclusive jurisdiction of that State, and also civil process issued under the authority of the State of New Jersey against any person domiciled in that State, or against property taken out of that State to evade the laws thereof, may be served upon any portion of the Delaware River between said States from low-water mark on the New Jersey shore to low-water mark on the Delaware shore, except upon Reedy

and Pea Patch islands, unless said person or property shall be on board a vessel aground upon or fastened to the shore of the State of Delaware, or the shores of said islands, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest or such property shall be under seizure by virtue of process or authority of the State of Delaware.

"ART. II. Criminal process issued under the authority of the State of Delaware against any person accused of an offense committed upon the soil of said State, or upon the western half of said Delaware River, or committed on board of any vessel being under the exclusive jurisdiction of that State, and also civil process issued under the authority of the State of Delaware against any person domiciled in that State, or against property taken out of that State to evade the laws thereof, may be served upon any portion of the Delaware River between said States from low-water mark on the Delaware shore to low-water mark on the New Jersey shore, unless said person or property shall be on board a vessel aground upon or fastened to the shore of the State of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest or such property shall be under seizure by virtue of process or authority of the State of New Jersey.

"ART. III. The inhabitants of the said States of Delaware and New Jersey shall have and enjoy a common right of fishery throughout, in, and over the waters of said river between lowwater marks on each side of said river between the said States, except so far as either State may have heretofore granted valid and subsisting private rights of fishery.

"ART. IV. Immediately upon the execution hereof the legislature of the State of New Jersey shall appoint three commissioners to confer with three commissioners to be immediately appointed by the general assembly of the State of Delaware for the purpose of drafting uniform laws to regulate the catching and taking of fish in the Delaware River and Bay between said two States, which said commissioners for each State, respectively, shall, within two years from the date of their appointment, report to the legislature of each of said States the proposed laws so framed and recommended by said joint commission. Upon the adoption and passage of said laws so recommended by the respective legislatures of said two States said laws shall constitute the sole laws for the regulation of the taking and catching of fish in the said river and bay between said States. Said laws shall remain in force until altered, amended, or repealed by concurrent legislation of the said two States. Said commissioners shall also ascertain the dividing line between said river and bay, and upon each of the shores of said two States where said dividing line extended shall intersect the same, shall, at the joint expense of said States, erect a suitable monument to mark the said dividing line. Said dividing line between said monuments shall be the division line between the said river and bay for the interpretation of and for all purposes of this compact, and of the concurrent legislation provided for therein.

"The faith of the said contracting States is hereby pledged to the enactment of said laws so recommended by said commissioners, or to such concurrent legislation as may seem judicious and proper in the premises to the respective legislatures thereof.

"Each State shall have and exercise exclusive jurisdiction within said river to arrest, try, and punish its own inhabitants for violation of the concurrent legislation relating to fishery herein provided for.

"ART. V. All laws of said States relating to the regulation of fisheries in the Delaware River not inconsistent with the right of common fishery hereinabove mentioned shall continue in force in said respective States until the enactment of said concurrent legislation as herein provided.

"ART. VI. Nothing herein contained shall affect the planting, catching, or taking of oysters, clams, or other shell fish, or interfere with the oyster industry as now or hereafter carried on under the laws of either State.

"ART. VII. Each State may, on its own side of the river, continue to exercise riparian jurisdiction of every kind and nature, and to make grants, leases, and conveyances of riparian lands and rights under the laws of the respective States.

"ART. VIII. Nothing herein contained shall affect the territorial limits, rights, or jurisdiction of either State of, in, or over the Delaware River, or the ownership of the subaqueous soil thereof, except as herein expressly set forth.

"ART. IX. This agreement shall be executed by the said commissioners when authorized to do so by the legislatures of the said States. It shall thereupon be submitted to Congress for its consent and approval. Upon the ratification thereof by Congress it shall be and become binding in perpetuity upon both of said States; and thereupon the suit now pending in the Supreme Court of the

United States, in which the State of New Jersey is complainant and the State of Delaware is defendant, shall be discontinued without costs to either party and without prejudice. Pending the ratification hereof by Congress said suit shall remain in status quo.

"Done in two parts (one of which is retained by the commissioners of Delaware, to be delivered to the governor of that State, and the other one of which is retained by the commissioners of New Jersey, to be delivered to the governor of that State) this twenty-first day of March, in the year of our Lord one thousand nine hundred and five."

EDWARD C. STOKES, PRESTON LEA,
ROBERT H. MCCARTER, ROBERT H. RICHARDS,
FRANKLIN MURPHY, HERBERT H. WARD,
CHAUNCEY G. PARKER, GEO. H. BATES.

And whereas the said agreement has been confirmed by the legislatures of the said States of New Jersey and Delaware, respectively: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress of the United States is hereby given to the said agreement and to each and every part and article thereof: *Provided*, That nothing therein contained shall be construed to impair or in any manner affect any right or jurisdiction of the United States in and over the islands or waters which form the subject of the said agreement.

Approved, January 24, 1907.

APPENDIX C
Joint Statement of Facts

No. 134, Original

In the

SUPREME COURT OF THE UNITED STATES

STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

JOINT STATEMENT OF FACTS

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Dated: December 26, 2006

JOINT STATEMENT OF FACTS

In connection with the filing of their initial dispositive motions on December 22, 2006, and pursuant to Case Management Order 14, dated November 9, 2006, the parties hereby stipulate to the following undisputed material facts:[1]

1. Delaware traces her title to that portion of the Delaware River and its bed encompassed by a circle of twelve miles from the town of New Castle, Delaware, to the low water mark on the eastern shore thereof (the "twelve-mile circle") through deeds going back to 1682.

2. From its earliest years as a State, and prior to the decision of the United States Supreme Court in *New Jersey v. Delaware II*, 291 U.S. 361 (1934), New Jersey claimed that, as a result of the American Revolution, that portion of the Delaware River lying between the thalweg of the Delaware River and the high water mark on the easterly shore within the twelve-mile circle became and remained vested in fee simple in New Jersey.

3. Salem County, New Jersey, Gloucester County, New Jersey, and New Castle County, Delaware, have boundaries that extend to the mean low water line on the easterly side of the Delaware River within the twelve-mile circle.

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[1] To the extent that statements herein summarize documents in the record, the documents themselves are the best evidence of their contents. This Joint Statement does not reflect the relative materiality of any specific fact stated herein as compared with facts not included. Nor does the Joint Statement address whether any act described here was done with or without legal authority.

4. Within Salem County, New Jersey, the municipalities of Oldmans Township, Penns Grove Borough, Carneys Point Township, Pennsville Township, and Elsinboro Township have boundaries that extend to the mean low water line on the easterly side of the Delaware River within the twelve-mile circle.

5. Within Gloucester County, New Jersey, the municipality of Logan Township has a boundary that extends to the mean low water line on the easterly side of the Delaware River within the twelve-mile circle.

6. Within New Castle County, Delaware, the City of Wilmington has a boundary that extends to the mean low water line on the easterly side of the Delaware River within the twelve-mile circle. The town of Claymont, Delaware, lies on the western side of the Delaware River within the twelve-mile circle across from Logan Township, Gloucester County, New Jersey. The town of New Castle, Delaware, lies on the western side of the Delaware River within the twelve-mile circle across from Salem County, New Jersey.

7. New Jersey's and Delaware's boundary at the mean low water line on the easterly side of the Delaware River within the twelve-mile circle comprises approximately 29 miles.

8. On May 27, 1813, Delaware adopted an Act (Del. Laws 1829, p. 673) ceding to the United States jurisdiction over Pea Patch Island on the Delaware River within the twelve-mile circle.

9. In 1820, New Jersey passed a law appointing commissioners to meet with any commissioners Delaware might subsequently appoint in order "to make and conclude

an agreement between the said states of New-Jersey and Delaware, defining their respective boundaries, jurisdiction, rights to islands, subaqueous soil, fisheries and products of the river and bay of Delaware, southeasterly of the circular boundary between the states of Delaware and Pennsylvania." 1820 N.J. Laws p. 205.

10. In 1846, the New Jersey Legislature enacted a law setting the boundary line of Salem County at the main shipping channel of the Delaware River. 1846 N.J. Laws, approved April 10, 1846, 2 Comp. Stat. 1690.

11. On August 8, 1846, Congress passed an Act [9 Stat. 67] authorizing the president of the United States "to take such steps as he may deem advisable for adjusting the title to the Pea Patch Island" within the twelve-mile circle.

12. On January 15, 1848, an arbitrator issued a decision upholding the title to Pea Patch Island that Delaware had conveyed to the United States in 1813. *In re: Pea Patch Island*, 30 F. Cas. 1123 (Jan. 15, 1848).

13. In 1851, the New Jersey Legislature adopted 1851 N.J. Laws, p. 355, pertaining to the filling of underwater lands.

14. In 1852, Delaware adopted the Boundary Act of 1852, stating that the limits of Delaware extend to the "low water mark on the eastern side of the Delaware River, within the twelve mile circle from New Castle."

15. In 1854, the New Jersey Legislature adopted 1854 N.J. Laws ch. 143, p. 375, pertaining to the construction of docks, piers or wharves by Thomas D. Broadway, et al., in front of their lands at Pennsville in the Township of Lower Penns Neck, Salem County, New Jersey.

16. In 1855 the New Jersey Legislature adopted 1855 N.J. Laws ch. 109, p. 274, incorporating the Pennsgrove Pier Company and pertaining to construction of a wharf or pier extending from the mainland into the Delaware River at the Village of Pennsgrove.

17. In 1864, the New Jersey Legislature adopted 1864 New Jersey Laws c. 391, p. 681, establishing the Board of Riparian Commissioners. *See* N.J. Stat. Ann. 12:3-1.

18. In 1870 the New Jersey Legislature adopted 1870 N.J. Laws ch. 131, p. 346, pertaining to the construction of wharves, piers and bulkheads by Robert Walker, et al., in front of their lands in the Township of Upper Penns Neck (now Pennsville).

19. In 1870, the New Jersey Legislature adopted 1870 N.J. Laws ch. 344, p. 726, pertaining to construction of a dock or wharf by Joseph Guest in front of his lands in the Township of Upper Penns Neck, (now Pennsville) Salem County, New Jersey.

20. In 1871, the New Jersey Legislature adopted 1871 N.J. Laws ch. 307, p. 758, pertaining to construction of wharves or piers by Henry Barber in front of his lands in the Township of Upper Penns Neck, (now Pennsville) Salem County, New Jersey.

21. In 1871, the New Jersey Legislature adopted 1871 N.J. Laws, c. 256, pertaining to grants and leases of tidally-flowed underwater lands outshore of the mean high water line by the New Jersey Board of Riparian Commissioners and Governor. *See* N.J. Stat. Ann. 12:3-10.

22. On March 28, 1871, Delaware passed "An Act for the Protection of Fishermen," which provided, *inter alia*,

that it would be unlawful for any person not a citizen of Delaware to catch fish in the Delaware River within the limits of the state without obtaining a Delaware license.

23. On or about May 2, 1872, Delaware officials arrested twenty-two fishermen from New Jersey for fishing within the twelve-mile circle without a license from Delaware.

24. On May 8, 1872, New Jersey Governor Joel Parker issued a proclamation asserting New Jersey's claim to jurisdiction over that part of Delaware River between the States that is easterly of the middle of the river and "warn[ing] all persons not to molest, disturb, arrest, or attempt to arrest, without lawful process, issued by some legal authority in this State, any citizen of New Jersey, at any place within her jurisdiction."

25. On May 14, 1872, Delaware Governor James Ponder responded to Governor Parker's proclamation by asserting, "The State of Delaware does not regard the question as to her jurisdiction over the said river and bay, as claimed by her, as an open question. The jurisdiction thus claimed is exclusive over the waters of said river to low water mark, on the eastern side of said river, within the twelve mile circle from New Castle, and is regarded by said State as paramount to any which may be claimed by any other State."

26. By acts adopted on January 30, 1873 and February 14, 1873, Delaware authorized the appointment of three commissioners to meet with three commissioners from New Jersey to resolve whether the citizens of New Jersey had the right to fish in the Delaware River within the twelve-mile circle, and if so, the nature and extent of the right.

27. By acts approved on February 26, 1873 and March 11, 1873, New Jersey authorized the appointment of three commissioners to meet with three commissioners from Delaware to settle so much of the dispute between the States as Delaware had submitted, without affecting New Jersey's other claims or jurisdiction, and subject to confirmation by the respective legislatures of the States and Congress.

28. By act adopted on April 8, 1873, Delaware authorized its commissioners to make such a compromise as would secure to the people of Delaware and New Jersey the mutual right of fishery in the Delaware Bay and in the Delaware River within the twelve-mile circle.

29. The commissioners appointed by Delaware and New Jersey in 1873 held conferences and exchanged communications in 1873 and 1874, but their efforts to reach a settlement failed.

30. On March 13, 1877, New Jersey filed a bill of complaint and motion for preliminary injunction against Delaware in a case before the Supreme Court of the United States, No. 1, Original, referred to herein as *New Jersey v. Delaware I*. New Jersey claimed to own in fee simple the bed of the Delaware River from the New Jersey shore to the middle of the river, and claimed that on every part of the waters of the Delaware River it had and was entitled to an equal interest and concurrent jurisdiction with Delaware.

31. On March 26, 1877, the Supreme Court granted an injunction restraining Delaware from imposing any license or fee upon any citizen or resident of New Jersey as a condition of fishing in the Delaware River, and from arresting or fining any citizen or resident of New Jersey

for fishing in the Delaware River, until further order to the contrary.

32. On November 3, 1877, the Board of Riparian Commissioners of the State of New Jersey (Riparian Commissioners) adopted pierhead and bulkhead lines for a portion of the Delaware River within the twelve-mile circle offshore of the County of Gloucester and the County of Salem.

33. On February 17, 1883, New Jersey issued a tidelands grant to Daniel H. Kent of Wilmington, Delaware, which by its terms includes submerged lands. By its terms, Tract 1 of the February 17, 1883 grant extends 300 feet on one side and 400 feet on the other to the exterior line established by the Riparian Commissioners in the Delaware River and Salem Cove in 1877, and is described as "flowed by tide water lying in the Township of Elsinboro."

34. In 1891, the New Jersey Legislature adopted 1891 N.J. Laws, c. 123, pertaining to dredging under tidal waters. N.J. Stat. Ann. 12:3-21.

35. On September 15, 1891, New Jersey issued a tidelands grant to Annie E. Brown. By its terms, the 1891 grant to Annie E. Brown extended 850 feet on one side into the Delaware River and 850 feet on the other to the Exterior Line of the New Jersey Board of Riparian Commissioners and is described as pertaining to property "flowed by tide water lying in Pennsville in the Township of Lower Penn's Neck. . . ."

36. On November 27, 1891, New Jersey issued a tidelands grant to Eugene DuPont, et al., all of New Castle County, Delaware, trading as E.I. DuPont de Nemours and

Company ("Dupont") (the November 27, 1891 grant). The property covered by the November 27, 1891 grant is within the twelve-mile circle, and extends from high water into the Delaware River 550 feet to the New Jersey Board of Riparian Commissioners' Exterior Line.

37. On October 15, 1901, Delaware filed its Answer in *New Jersey v. Delaware I* denying New Jersey's claims and averring, *inter alia*, that Delaware is the owner of the whole bed of the Delaware River and of the river itself within the twelve mile circle to the low-water mark on the New Jersey shore.

38. On February 23, 1903, Delaware approved a joint resolution appointing a joint committee of members of its House and Senate to confer with Delaware's Attorney General and special counsel in *New Jersey v. Delaware I* "concerning the proper disposition of the territorial controversy between this State and the State of New Jersey, now pending in a cause in which the State of New Jersey is complainant and the said State of Delaware is defendant, in the Supreme Court of the United States." 22 Del. Laws ch. 472.

39. On March 5, 1903, New Jersey appointed three commissioners to confer with like commissioners from Delaware "for the purpose of framing a compact or agreement between the said states and legislation consequent thereon, to be submitted to the legislatures of said two states for action thereon, looking to the amicable termination of the suit between said States in the supreme court of the United States and the final adjustment of all controversies relating to the boundary line between said states and to their respective rights in the Delaware river."

40. The commissioners of each State met between March 12-14, 1903, and on March 16, 1903, the commissioners from both States presented a draft compact to their respective legislatures.

41. The draft compact was approved by the New Jersey legislature on April 8, 1903, but was not approved by the Delaware legislature.

42. On April 9, 1903, Delaware approved a joint resolution formally appointing three commissioners to meet with commissioners from New Jersey "for the purpose of framing a compact or agreement between the said States and legislation consequent thereon, to be submitted to the Legislatures of said two States for action thereon, looking to the amicable termination of the suit between the states in the Supreme Court of the United States and the final adjustment of all controversies relating to the boundary line between said States and their respective rights in the Delaware River." 22 Del. Laws ch. 473.

43. On February 13, 1905, Delaware adopted a joint resolution appointing four commissioners to confer with four commissioners from New Jersey "for the purpose of framing a compact or agreement between the states and legislation consequent thereon, to be submitted to the legislatures of said two states for action thereon, looking to the amicable termination of the suit between the states now pending in the Supreme Court of the United States and the final adjustment of all controversies relating to the boundary line between said states and their respective rights in the Delaware River and Bay."

44. On February 14, 1905, New Jersey passed a joint resolution appointing commissioners to confer with commissioners from Delaware "for the purpose of framing a

compact or agreement between the said states and legislation consequent thereon to be submitted to the legislatures of said two states for action thereon, looking to the amicable termination of the suit between said states now pending in the Supreme Court of the United States and the final adjustment of all controversies relating to the boundary line between said states and to their respective rights in the Delaware river and bay."

45. On February 18, 1905, the commissioners of Delaware and New Jersey met and agreed to the terms of a "Compact Between the State of New Jersey and the State of Delaware Relating to the Boundary Controversy Between Said States" (hereinafter, the "1905 Compact" or the "Compact").

46. On March 20, 1905, Delaware approved the 1905 Compact, subject to ratification by Congress.

47. On March 21, 1905, New Jersey approved the 1905 Compact, subject to ratification by Congress.

48. On March 23, 1905, Delaware approved an act appointing three commissioners to confer with like commissioners appointed by New Jersey to perform certain acts as stipulated in the 1905 Compact, including the drafting of uniform fishing laws.

49. On May 11, 1905, New Jersey approved an act appointing commissioners to confer with like commissioners from Delaware to perform certain acts as stipulated in the 1905 Compact, including the drafting of uniform fishing laws.

50. The commissioners thus appointed by the States formed the Joint Fisheries Commission.

51. On February 19, 1906, the special commissioner appointed by the Court in *New Jersey v. Delaware I* entered a report stating that in light of Congress's pending approval of the Compact, Delaware and New Jersey had requested that the case be suspended.

52. On February 23, 1906, counsel for Delaware and New Jersey entered into a stipulation requesting that the Court approve the special commissioner's February 19, 1906 report and authorizing the special commissioner to suspend the case.

53. On March 7, 1906, the Supreme Court suspended the case for sixty days.

54. On March 9, 1906, President Theodore Roosevelt forwarded to Congress a certified copy of the Compact.

55. On March 13, 1906, the United States Senate passed the Compact.

56. On May 16, 1906, New Jersey issued a tidelands grant to James A. Denny, et al., dated, covering property offshore of what is now known as Block 1, Lot 4, Penns Grove Borough, within the twelve-mile circle, and by the terms of the grant extending 500 feet waterward of high water into the Delaware River.

57. On October 16, 1906, the Supreme Court granted a motion to suspend the proceedings until February 4, 1907.

58. On January 16, 1907, the Joint Fisheries Commission agreed upon uniform fishing laws.

59. On January 24, 1907, the United States House of Representatives approved the Compact, thus making it

effective ("An Act Giving the consent of Congress to an agreement or compact entered into between the State of New Jersey and the State of Delaware respecting the territorial limits and jurisdiction of said States", Jan. 24, 1907, ch. 394, 34 Stat. 858).

60. On January 24, 1907, the Joint Fisheries Commission met and approved the uniform laws in the form that would be submitted to the respective legislatures.

61. On April 23, 1907, Delaware approved an "An Act Providing Uniform Laws to Regulate the Catching and Taking of Fish in the Delaware River and Bay Between the State of Delaware and the State of New Jersey."

62. On May 7, 1907, New Jersey passed "An Act Providing Uniform Laws to Regulate the Catching and Taking of Fish in the Delaware River and Bay Between the State of Delaware and the State of New Jersey."

63. Those 1907 Delaware and New Jersey fishing laws were not uniform.

64. On April 4, 1907, Delaware adopted an Act to cede to the United States submerged land within the twelve-mile circle east of the ship channel.

65. On March 29, 1907, the New Jersey Legislature adopted an act to cede to the United States the same submerged land within the twelve-mile circle east of the ship channel as is referenced in the preceding paragraph.

66. In 1914, the New Jersey Legislature adopted the Waterfront Development Law, 1914 N.J. Laws c. 123, pertaining to construction of waterfront developments such as a bulkhead, pier, wharf, dock. bridge, pipe line or cable. See N.J. Stat. Ann. 12:5-1 et seq.

67. In 1915, Delaware adopted the Boundary Act of 1915, declaring the limits of the State to extend to the low water mark on the Eastern side of the Delaware River within the twelve-mile circle.

68. On March 21, 1916, New Jersey issued a tidelands grant to Pennsgrove Pier Co. (the March 21, 1916 grant), by its terms covering property offshore of Penns Grove Borough, Salem County, New Jersey that extends 885 feet on one side and 975 feet on the other to the New Jersey Pierhead and Bulkhead line.

69. On March 27, 1916, New Jersey issued a tidelands lease to Harry S. Barber (the March 27, 1916 lease), by its terms covering property outshore of Block 54, Lots 1 and 2, Penns Grove Borough, extending 575 feet from the high water line into the Delaware River.

70. On August 21, 1916, the New Jersey Board of Commerce and Navigation adopted pierhead and bulkhead lines on part of the eastern portion of the Delaware River, outshore of mean low water within the twelve-mile circle (the New Jersey Pierhead and Bulkhead Lines (1916)).

71. On August 21, 1916, New Jersey issued a tidelands grant to DuPont (the August 21, 1916 grant), by its terms including nine tracts within the twelve-mile circle in either Pennsville Township, Carneys Point Township or Penns Grove Township. The tracts included in the August 21, 1916 grant extend from the high water mark into the Delaware River various distances, from 202 feet on one side of Tract One to 4,222.1 feet on one side of Tract Seven.

72. On November 20, 1916, New Jersey issued a tidelands grant to DuPont, by its terms covering property offshore of what is now known as Block 301, Lot 1,

Pennsville Township, at Deep Water Point, and within the twelve-mile circle (the November 20, 1916 grant). By its terms, the November 20, 1916 grant extends 661.3 feet from high water on one side and 650 feet on the other, into the Delaware River, both to the New Jersey Pierhead and Bulkhead line (1916).

73. On March 27, 1917, New Jersey passed a law granting jurisdiction over and title to lands in the Delaware River to the United States for bulkhead and fill. 1917 N.J. Laws ch. 189.

74. On July 16, 1917, New Jersey issued a tidelands grant to DuPont, by its terms consisting of two tracts that are offshore of what is now known as Block 1 or 301, Lot 1, Pennsville Township, and within the twelve-mile circle (the July 16, 1917 grant). By its terms the July 16, 1917 grant extends 668 feet on one side of tract 1, and 648 feet on both sides of tract 2, offshore of the high water line and into the Delaware River, all to the New Jersey Pierhead and Bulkhead line (1916) and by its terms is described as property "flowed by tide water situate at Deep Water Point, in the County of Salem. . . ."

75. Between 1918 and 1939 there existed a New Jersey State tidelands lease to DuPont dated May 20, 1918 (the May 20, 1918 lease).

76. On October 17, 1921, New Jersey issued a tidelands grant to French's Hotel Company, by its terms covering property offshore of what is now known as Block 57, Lot 1, Penns Grove Borough, and within the twelve-mile circle (the October 17, 1921 grant). By the terms of the grant, the property covered by the October 17, 1921 grant extends offshore from the high water mark 1,135.38

feet on one side and 1,283.86 feet on the other, and into the Delaware River.

77. On February 19, 1923, New Jersey issued a tidelands grant to William D. Acton, by its terms covering property now offshore of Pennsville Township, within the twelve-mile circle (the February 19, 1923 grant). The property covered by the February 19, 1923 grant extends 333.52 feet from the high water line to the corner of a pre-existing pier, and another 580 feet further waterward to the 1916 pierhead and bulkhead line on one side, and 360.75 feet from the original high water line to a corner of the pre-existing pier, and another 572.66 feet further waterward to the New Jersey Pierhead and Bulkhead line (1916), on the other side. The February 19, 1923 grant refers to a pier.

78. On November 19, 1923, New Jersey issued a tidelands grant to William D. Acton, by its terms covering property extending 970 feet on one side from the high water mark into the Delaware River, and 964 feet from the high water line on the other side to the 1916 pierhead and bulkhead line, outshore of the Township of Lower Penns Neck, Salem County, New Jersey.

79. On August 18, 1924, New Jersey issued a tidelands lease to Fogg and Hires Company for 15 years (the Fogg and Hires lease), by its terms covering property offshore of what is now known as Block 2801, Lot 6, Pennsville Township, at the foot of Ferry Road, and within the twelve-mile circle. By its terms the property covered by the Fogg and Hires Co. lease extended 985.44 feet offshore from the high water line of the Delaware River on one side and an approximately equal distance offshore on the other side to the New Jersey Pierhead and Bulkhead

line (1916). The Fogg and Hires Co. lease was cancelled May 18, 1930 and replaced with a State of New Jersey grant to the Delaware-New Jersey Ferry Company dated May 19, 1930, which grant encompassed a property with the same dimensions and location as the Fogg and Hires lease.

80. On April 14, 1925, Delaware adopted an Act (34 Del. L. p. 6) to cede to the United States 605 acres of lands within the twelve-mile circle, to the low water mark on the easterly side of the Delaware River, for the purpose of constructing a basin for the reception of material dredged from the channel of the Delaware River.

81. On August 17, 1925, New Jersey issued a tidelands grant to William D. Acton, by its terms covering property that extends 863.21 feet from the high water line into the Delaware River on one side, and 853.87 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916), offshore of Lower Penns Neck (now Pennsville Township), Salem County, New Jersey.

82. On August 17, 1925, New Jersey issued a second tidelands grant to William D. Acton, by its terms covering property located offshore of Lower Penns Neck (now Pennsville Township), Salem County, New Jersey, that extends 965.40 feet on one side and 966.63 feet on the other beyond the former high water line of the Delaware River to the New Jersey Pierhead and Bulkhead line (1916). The records of the Army Corps of Engineers indicate that a permit was issued to W.D. Acton to construct a Timber Pier to be located offshore of the North side of Pittsfield Street, Pennsville, and that the pier completed May 22, 1926 was 550 feet long.

83. On September 21, 1925, New Jersey issued a tidelands grant to the Township of Lower Penns Neck (the September 21, 1925 grant), covering property that is now offshore of Pennsville Township, within the twelve-mile circle. By its terms, the property covered by the September 21, 1925 grant extends 966.83 feet on one side and 969.91 feet on the other, outshore of the former high water line of the Delaware River.

84. On October 19, 1925, New Jersey issued a tidelands grant to William D. Acton, dated by its terms covering property that is now outshore of Pennsville Township, within the twelve-mile circle (the October 19, 1925 grant). By the terms of the grant, the property covered by the October 19, 1925 grant extends waterward from the former high water line 360.75 feet to a point on an adjoining pier, and then another 572.66 feet into the Delaware River on one side to the New Jersey Pierhead and Bulkhead Lines (1916), and 375.41 feet to a point waterward and then another 565.67 feet further waterward into the Delaware River to the New Jersey Pierhead and Bulkhead line (1916) on the other side.

85. In 1925, oyster boats from Delaware dredged and took many thousands of bushels of seed oysters from subaqueous lands claimed by New Jersey.

86. On February 21, 1927, Delaware adopted an Act (35 Del. L. pp. 6-8) to cede to the United States 1,541 acres of submerged lands within the twelve-mile circle, to the low water mark on the easterly side of the Delaware River, for the purpose of constructing a basin for the reception of material dredged from the channel of the Delaware River.

87. On March 2, 1927, Delaware adopted a joint resolution appointing a commission "for the purpose of

framing a compact or agreement between the said States and legislation consequent thereon, to be submitted to the Legislatures of said two States for action thereon, looking to the final adjustment of all controversies relating to the boundary line between said States and to their respective rights in the Delaware River and Bay."

88. On March 28, 1927, New Jersey adopted a joint resolution appointing a commission for "for the purpose of framing a compact or agreement between the said States and legislation consequent thereon, to be submitted to the Legislatures of said two States for action thereon, looking to the final adjustment of all controversies relating to the boundary line between said States and to their respective rights in the Delaware River and Bay.". The joint commission appointed in 1927 met during 1928-1929 but was unable to reach agreement.

89. On June 19, 1928, New Jersey issued a tidelands grant to The Franklin Real Estate Company by its terms covering property that is now offshore of Block 301, Lot 13, Pennsville Township, within the twelve-mile circle, and that extends 991.46 feet from high water into the Delaware River on one side and 827.70 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).

90. On May 6, 1929, the New Jersey legislature passed a joint resolution authorizing its attorney general to bring suit against Delaware in the Supreme Court to "fix and determine the boundary line between Delaware and New Jersey from the Pennsylvania line, through the Delaware River, to the Atlantic Ocean."

91. On April 15, 1929, New Jersey issued a tidelands grant to William G. Locuson (the William Locuson grant) covering property offshore of what is now known as Block

301, Lot 9, Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the William Locuson grant extends 827.70 feet waterward of the high water line on one side and 823.60 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).

92. On April 15, 1929, New Jersey issued a tidelands grant to Anna C.B. Locuson (the Anna Locuson grant), by its terms covering property located offshore of Pennsville Township, and within the twelve-mile circle, that extends 813.97 feet into the Delaware River from the high water line on one side and 809.16 feet from the high water line on the other, both to the New Jersey Pierhead and Bulkhead Lines (1916).

93. On April 15, 1929, New Jersey issued a tidelands grant to Josephine Grace Locuson, et al., dated April 15, 1929 (the Josephine Locuson grant), covering property offshore of Pennsville Township and within the twelve-mile circle, that by its terms extends from the high water line of the Delaware River waterward 813.97 feet on one side and approximately 818.78 feet on the other, both to the New Jersey Pierhead and Bulkhead Line (1916).

94. On April 15, 1929, New Jersey issued a tidelands grant to Josephine Grace Locuson, et al., (the second Josephine Locuson grant), covering property offshore of Pennsville Township, and within the twelve-mile circle, that by its terms extends from the high water mark 823.60 feet on one side and 818.78 feet on the other, into the Delaware River, both to the New Jersey Pierhead and Bulkhead line (1916).

95. On June 3, 1929, New Jersey filed a complaint against the State of Delaware in the Supreme Court,

originally docketed as No. 19, Original (October Term, 1929) and referred to herein as *New Jersey v. Delaware II*.

96. On June 17, 1929, New Jersey issued a tidelands grant to Josephine Grace Locuson et al. (the June 17, 1929 grant), covering property offshore of Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the June 17, 1929 grant extends from the high water line 809.16 feet into the Delaware River on one side and 797.42 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).

97. On or about October 9, 1929, Delaware filed its Answer in *New Jersey v. Delaware II*.

98. On October 21, 1929, New Jersey issued a tidelands grant to DuPont (the October 21, 1929 grant), covering property offshore of what is now known as Block 1 or 301, Lot 1, Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the October 21, 1929 grant extends from the mean high water mark 648 feet into the Delaware River to the New Jersey Pierhead and Bulkhead line (1916).

99. On October 21, 1929, New Jersey issued a tidelands license to the Delaware River Power Company (the October 21, 1929 license), covering property offshore of Pennsville Township within the twelve-mile circle. By its terms the October 21, 1929 license allows for eight armored submarine electric cables at Deep Water Point.

100. On October 21, 1929, New Jersey issued a tidelands lease to the Penn Beach Property Owners' Association (the October 21, 1929 lease). By its terms the property covered by the October 21, 1929 lease was a "tract of land flowed by tide-water situate in the Township

of Lower Penns Neck," Salem County, and extended 429.49 feet beyond the mean high water line on one side and 430.70 feet on the other to the New Jersey Pierhead and Bulkhead Lines (1916).

101. On January 6, 1930, the Supreme Court appointed William L. Rawls as special master in *New Jersey v. Delaware II*.

102. On October 9, 1933, Special Master Rawls entered his report in *New Jersey v. Delaware II*.

103. On February 5, 1934, the Supreme Court entered its opinion in *New Jersey v. Delaware II*.

104. On June 3, 1935, the Supreme Court entered its decree in *New Jersey v. Delaware II*.

105. On September 16, 1935, New Jersey issued a tidelands grant to J. Landis Strickler covering property outshore of Block 54, Lot 1, Penns Grove Borough that extends 249.36 feet waterward of the center line of Delaware Avenue.

106. There is a State of New Jersey tidelands grant to DuPont dated September 13, 1943 (the September 13, 1943 grant).

107. On October 14, 1957, New Jersey issued a tidelands grant to Sun Oil Company dated (the October 14, 1957 grant) covering property outshore of what is now known as Block 101, Lots 2 and 5, Logan Township, Gloucester County, and within the twelve–mile circle. The property covered by the October 14, 1957 grant extends 1,245 feet from the mean high water line on one side and 1,245.82 feet on the other into the Delaware River.

108. On March 31, 1960, New Jersey issued a tidelands grant to DuPont (the March 31, 1960 grant), covering property outshore of Pennsville Township, within the twelve-mile circle. The property covered by the March 31, 1960 grant extends 1,027.61 feet waterward of the high water line of the Delaware River on one side and 1,096 feet on the other, both sides out to the New Jersey Pierhead and Bulkhead line (1916). The March 31, 1960 grant includes as a second tract a further area 100 feet waterward of the New Jersey Pierhead and Bulkhead line (1916).

109. In 1961, Delaware adopted a statute pertaining to the sale, lease, or granting of easements to subaqueous public lands. 53 Del. Laws ch. 34.

110. On January 11, 1962, Delaware entered into a twenty-year subaqueous land lease allowing the SunOlin Chemical Company to use Delaware subaqueous soil within the twelve-mile circle to construct, maintain, repair, replace, renew and operate submarine pipelines across the Delaware River from Claymont, Delaware to Gloucester County, New Jersey. Delaware renewed this lease on November 14, 1981 for a period of ten years. This lease was again renewed on October 15, 1991 for a period of ten years, and on May 15, 2002 for a period of twenty years.

111. On October 9, 1963, Delaware entered into a ten-year subaqueous land lease allowing the Colonial Pipeline Company to use Delaware subaqueous soil within the twelve-mile circle near Logan Township, New Jersey to construct, maintain, inspect, operate, renew, replace, repair, improve and remove submarine pipelines, from

Claymont, Delaware to Logan Township, Gloucester County, New Jersey.

112. In 1966, Delaware adopted an Underwater Lands Act pertaining to the sale, lease, or granting of easements to subaqueous public lands. 55 Del. Laws. ch. 442.

113. On or about September 29, 1967, New Jersey issued a tidelands grant to DuPont (the September 29, 1967 grant). By the terms of the grant, the property covered by the September 29, 1967 grant is outshore of Pennsville Township and abuts to the north the March 31, 1960 grant to DuPont. The property covered by the September 29, 1967 grant extends 1,096 feet waterward of the high water line of the Delaware River on one side and 1,155 feet on the other.

114. In 1970, the New Jersey Legislature enacted the Wetlands Act of 1970 to protect coastal wetlands, including tidally-flowed wetlands along the Delaware Bay and River. N.J. Law of 1970, c. 272, now codified as N.J. Stat. Ann. 13:9A-1 et seq.

115. In 1971, Delaware adopted the Delaware Coastal Zone Act ("DCZA"). Del. Code Ann., tit. 7, § 7001 *et seq.*

116. On or about September 29, 1971, Delaware granted a ten-year lease to allow DuPont to dredge Delaware subaqueous soil, build a dock, and construct a fuel oil storage tank at the DuPont Chambers Works facility within the twelve-mile circle near the New Jersey shore. By its terms, the lease is "without prejudice to the title claim of either party."

117. In December 1971, the El Paso Eastern Company submitted a proposal to construct a liquefied natural gas ("LNG") facility in New Jersey, which included a proposal to build a pier from the New Jersey shore into Delaware within the twelve-mile circle. On February 23, 1972, Delaware issued a status decision stating that El Paso's proposal was a prohibited use under the DCZA.

118. In 1972, the Federal government adopted the Coastal Zone Management Act ("CZMA"). 16 U.S.C. § 1451 *et seq.*

119. In 1973, the New Jersey Legislature enacted the Coastal Area Facility Review Act ("CAFRA") to protect New Jersey's coastal zone. N.J. Law of 1993, c. 185, now codified as N.J. Stat. Ann. 13:19-1 et seq.

120. In 1977, the New Jersey Legislature enacted the Water Pollution Control Act, to allow New Jersey, among other things, to administer the discharge permitting program then administered by the federal government through the federal Clean Water Act. N.J. Law of 1977, c. 74, now codified as N.J. Stat. Ann. 58:10A-1 et seq.

121. On September 16, 1977, the New Jersey Department of Environmental Protection ("NJDEP") issued a permit to Dupont for maintenance dredging at Dupont's Chambers Works facility beyond the low water line of the Delaware River, within the twelve-mile circle.

122. In 1977, NJDEP issued to Dupont a permit to dismantle and remove wastewater outfall structures in the Delaware River within the twelve-mile circle.

123. In 1978, the Federal government approved New Jersey's coastal management plan with respect to most coastal areas.

124. In March 1979, New Jersey issued a report entitled Options for New Jersey's Developed Coast.

125. In March 1980, the Federal government approved Delaware's coastal zone management plan, which includes the DCZA.

126. In August 1980, the Federal government approved New Jersey's coastal zone management plan with respect to all coastal areas.

127. On March 18, 1982, Delaware issued a Letter of Authorization to DuPont in Deepwater, New Jersey by its terms allowing DuPont to repair and replace an existing 36 pile cluster in subaqueous soil within the twelve-mile circle outshore of low water.

128. In 1982, NJDEP issued a waterfront development permit and water quality certificate for the DuPont facility in Carneys Point and Pennsville, New Jersey, by the terms of the permit allowing dredging of the berth area of an existing pier.

129. In 1982, NJDEP issued to DuPont a waterfront development permit for a new sheet piling cell, by its terms allowing replacement of an existing timber cluster on the Delaware River, at Dupont's Chambers Works Plant in Deepwater, New Jersey.

130. In 1986, Delaware adopted a Subaqueous Lands Act pertaining to public and private subaqueous lands. Del. Code Ann., tit. 7, ch. 72.

131. In 1987, NJDEP issued New Jersey Pollution Discharge Elimination System permit NJ0005100DSW to Dupont, allowing it to discharge effluent from its

Chambers Works facility in Pennsville Township, New Jersey, into the Delaware River.

132. On July 28, 1987, Delaware entered into a ten-year subaqueous lands lease allowing the Columbia Gas Transmission Corp. to construct a submerged natural gas pipeline across the Delaware River within the twelve-mile circle. The lease also allowed Columbia Gas to dredge 552 cubic yards of material from subaqueous lands within the twelve-mile circle. This lease was renewed on January 8, 1998.

133. On August 3, 1987, Delaware entered into a ten-year subaqueous lands lease allowing the Colonial Pipeline Company to construct a 30 inch submerged petroleum pipeline across the Delaware River within the twelve-mile circle, and dredge subaqueous lands within the twelve-mile circle.

134. On July 13, 1990, Keystone Cogeneration Systems Inc., currently known as the Logan Generating Company, applied to Delaware's Department of Natural Resources and Environmental Control ("DNREC") for a status decision relating to its proposal to build a 200 megawatt coal-fueled cogeneration facility in Logan Township, New Jersey, including a 1,100 pier extending from the New Jersey shore into Delaware territory within the twelve-mile circle. In a status decision dated November 19, 1990, DNREC determined that the Keystone project did not constitute a prohibited bulk product transfer facility under the DZCA and that a permit under the DCZA was required. DNREC issued a coastal zone permit to Keystone on December 13, 1991.

135. On September 30, 1991, DNREC issued a subaqueous lands lease by its terms permitting the construction of the coal unloading pier and permitting the dredging of 40,000 cubic yards of material from the Delaware River within the twelve-mile circle. On May 28, 1993, Delaware issued additional approvals for the Keystone facility to allow for a modification of pier dimensions. On March 15, 1995, Delaware issued a letter of authorization for a one year extension of the subaqueous lands permit issued on September 30, 1991, and provided permission to dredge an additional 13,750 cubic yards of material within the twelve-mile circle. On November 12, 1997, Delaware issued a letter of authorization for maintenance dredging at the facility. On November 9, 2001, Delaware issued a renewal to maintain a pier, docks and dolphins at the facility.

136. On September 24, 1991, NJDEP issued to Keystone Cogeneration Systems Inc. in Logan Township, New Jersey, stream encroachment, waterfront development and freshwater wetlands permits and a Water Quality Certificate, for a coal unloading facility and a 1600-foot approach-way pier.

137. On June 12, 1992, New Jersey issued a lease to Keystone Urban Renewal Limited Partnership (the June 12, 1992 lease), by its terms covering property outshore of what is now known as Block 101, Lots 2 and 5, Logan Township, Gloucester County and outshore of part of the property covered by the October 14, 1957 Grant to the Sun Oil Company. By its terms, the property covered by the June 12, 1992 lease extends approximately 1,600 feet offshore of the original mean high water line into the Delaware River, within the twelve-mile circle.

138. In September 1995, NJDEP Division of Parks and Forestry applied to DNREC for a subaqueous land lease to permit New Jersey to rehabilitate a pier and construct a new floating ferry dock on Delaware subaqueous soil within the twelve-mile circle near Fort Mott State Park in Pennsville Township, New Jersey. On February 7, 1996, Delaware entered into a ten-year subaqueous land lease with the NJDEP Division of Parks and Forestry.

139. On January 24, 1996, NJDEP issued a waterfront development permit to NJDEP's Division of Parks and Forestry for the rehabilitation of the historic pier at Fort Mott State Park in Pennsville Township, and other work specified in the permit.

140. In 1996 NJDEP issued and renewed in 2005 a water allocation permit for the Keystone Cogeneration Systems, Inc. facility located in Logan Township. The water allocation permit allows the facility to withdraw up to 108.5 million gallons of water per month from the Delaware River through an intake structure located beyond the low water line, within the twelve-mile circle, that extends approximately 1,600 feet into the Delaware River.

141. On December 9, 1997, Delaware entered into a ten-year subaqueous land lease allowing Delmarva Power and Light Company to install 3,755 linear feet of submarine fiber optic cable in the Delaware River within the twelve-mile circle extending from Pigeon Point in New Castle County, Delaware, to Deepwater Point in New Jersey. This lease was amended on March 11, 2002.

142. On March 22, 2000, NJDEP issued to Pennsville Township a waterfront development permit for removal of a municipal boat ramp and construction of a new ramp.

143. There is a lease to William G. Bergmann, et al., by the State of New Jersey initially dated January 11, 1999, and renewed February 13, 2002 (the January 11, 1999 lease). By the terms of the lease, the property covered by the January 11, 1999 lease extends 35 feet waterward of the high water line, and is located offshore of what is now known as Block 1601, Lot 25, on North River Drive in the Township of Pennsville.

144. There is a lease to the Township of Pennsville by the State of New Jersey dated April 25, 2000 (the April 25, 2000 lease), by its terms covering property outshore of Block 3428, part of Lot 1, Township of Pennsville, at the foot of Dartmouth Road, that extends 95 feet offshore of the existing bulkhead and mean high water line (1999).

145. On January 24, 2001, New Jersey granted an Assignment of Management Rights (lease) to the New Jersey Division of Parks and Forestry (the January 24, 2001 lease), covering property offshore of Block 5301, Lot 3, Pennsville Township, and within the twelve-mile circle. By the lease terms, the property subject to the January 24, 2001 lease includes a pier offshore of Block 5301, Lot 3, Pennsville Township that extends 350 feet waterward of the high water line into the Delaware River.

146. On February 20, 2001, NJDEP issued to Pennsville Township a waterfront development permit for installation of stormwater force main pipes, which were 113 feet long.

147. On May 4, 2001, Delaware issued a subaqueous lands permit to DuPont Chambers Works located near Deepwater, New Jersey, by its terms allowing DuPont to dredge approximately 4,650 cubic yards of material from the Delaware River within the twelve-mile circle, to backfill

existing elevations on a 0.71 acre site in the Delaware River, and to install a temporary sheet pile wall surrounding the proposed excavation in the Delaware River.

148. On May 10, 2005, the Delaware Wetlands and Subaqueous Lands Section issued a twenty-year subaqueous lands lease and a water quality certification to Fenwick Commons, LLC ("Fenwick") in connection with a project to rehabilitate a dilapidated pier at the end of west main street in Penns Grove, New Jersey. By its terms, the lease permits Fenwick to construct a 40 foot wide by 750 foot long pier, a 6 foot wide by 95 foot long aluminum gangway, a 28 foot wide by 120 foot long floating dock and breakwater, 6 support pilings, 1,255 linear feet of steel bulkhead and permission to fill 1,882 square feet of public subaqueous lands near Penns Grove, New Jersey. On May 6, 2005, counsel for Fenwick wrote to DNREC stating that "the issue as to the ownership of lands is in dispute as to the Riparian Grants from the State of New Jersey."

149. On August 10, 2006, the New Jersey State Park Service applied to Delaware to renew its subaqueous lands lease for the Fort Mott pier. On December 19, 2006, a New Jersey official wrote to DNREC that the Park Service's lease application was "without prejudice" to New Jersey's position in this lawsuit.

150. On September 27, 2004, British Petroleum ("BP"), through its wholly owned indirect subsidiary, Crown Landing, LLC, requested permission from NREC's Wetlands and Subaqueous Lands Section to drill geotechnical test borings in the Delaware River in connection with a proposal to construct a liquefied natural gas ("LNG") terminal on the Delaware River. The proposed facility is commonly referred to as the "Crown Landing project" or "Crown Landing facility."

151. BP's proposed Crown Landing facility would include an LNG plant, storage facility, as well as other structures in New Jersey and a pier and related structures that extend into Delaware within the twelve-mile circle.

152. The portion of BP's proposed Crown Landing facility located in Delaware would include an LNG transfer system installed on the unloading platform to transfer the LNG from the ship to three 150,000-cubic-meter storage tanks located in New Jersey.

153. BP's proposed Crown Landing facility would require the dredging of 1.24 million cubic yards of subaqueous soil, which would disturb approximately 29 acres of the bed of the river within Delaware territory.

154. On December 7, 2004, BP, through its wholly-owned indirect subsidiary, Crown Landing, LLC, applied to DNREC for a status determination under the Delaware Coastal Zone Act for the proposed Crown Landing project.

155. On January 7, 2005, BP filed a Waterfront Development Application with the NJDEP's Office of Dredging and Sediment Technology.

156. On February 3, 2005, DNREC issued a status decision determining that BP's proposed project was a prohibited "offshore bulk transfer facility" as well as a prohibited "heavy industry use" under the Delaware Coastal Zone Act.

157. On February 15, 2005, BP filed an administrative appeal to the Delaware Coastal Zone Industrial Board ("CZICB").

158. On April 14, 2005, the CZICB affirmed DNREC's status decision determining that BP's Crown Landing

project was a bulk product transfer facility prohibited under the DCZA. BP did not appeal that decision.

159. On July 28, 2005, New Jersey filed in the Supreme Court a Motion to Reopen and for Supplemental Decree in No. 11, Original, accompanied by a petition and brief in support thereof.

160. By order dated November 28, 2005, the Court denied New Jersey's Motion to Reopen and directed that the petition filed therewith be treated as a Bill of Complaint in No. 134, Original, which the parties refer to as *New Jersey v. Delaware III*.

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Dated: December 26, 2006

APPENDIX D

Order on New Jersey's Motion to Strike Proposed Issues of Fact

No. 134, Original

In the

SUPREME COURT OF THE UNITED STATES

STATE OF NEW JERSEY,

Plaintiff

v.

STATE OF DELAWARE,

Defendant

OFFICE OF THE SPECIAL MASTER

ORDER ON NEW JERSEY'S MOTION TO STRIKE DELAWARE'S PROPOSED ISSUES OF FACT NOS. 1, 2, 6, 8 AND 9 AND TO PRECLUDE DISCOVERY ON THOSE ISSUES

June 13, 2006

ORDER

Upon consideration of New Jersey's Motion to Strike Delaware's Issues of Fact Nos. 1, 2, 6, 8 and 9 and to Preclude Discovery on These Issues, Delaware's Opposition thereto, and New Jersey's Reply, and after oral argument held on June 7, 2006, IT IS HEREBY ORDERED:

1. *Delaware's Proposed Issue of Fact No. 1*: New Jersey's motion to strike is granted.

Delaware asserts as a relevant factual issue, and seeks discovery concerning, any projects other than the Crown Landing LNG facility that "are under consideration or pending for approval in New Jersey within the twelve-mile circle and implicate Article VII or VIII" of the Compact of 1905.

To the extent the Compact is found to be ambiguous, it may be appropriate to look to extrinsic evidence of the States' intentions and course of conduct. But, as Delaware itself has recognized, information concerning other proposed projects that might be in the development pipeline – but that have not been approved or for which approval has not been sought in either state – cannot be useful in clarifying any ambiguity in the meaning of the grant of riparian jurisdiction to the states contained in the Compact. (*See* Def. Opp. to Motion to Strike Issues of Fact at 21.)

Delaware apparently seeks to have the Court render an opinion on whether any manner of speculative development that could conceivably be proposed in the future on New Jersey's shore within the twelve-mile circle would fall within the scope of the Compact's reservation of riparian jurisdiction. But whether private parties someday might propose "casinos, restaurants, heliports, amusement parks, or adult entertainment" on the New Jersey side of the Delaware River, whether such projects might be permitted by New Jersey under its applicable laws and regulations, and whether Delaware itself might assert jurisdiction to regulate such proposed projects under state law are all abstract, hypothetical questions. What the

Court is asked to do in this case is to determine the scope and meaning of the language of the Compact framed against the backdrop of a particular project, the Crown Landing LNG facility, over which Delaware has asserted jurisdiction and for which Delaware has declined to issue permits under Delaware law. As discussed below, the scope and particulars of that project, which brought the dispute between the states to a head, are potentially relevant in analyzing the meaning of the Compact. But, evidence of any possible but yet unrealized future proposals could not be relevant to the legal issue that the Court has to resolve.

2. *Delaware's Proposed Issue of Fact No. 2*: New Jersey's motion to strike is granted.

Delaware has asserted as a relevant factual issue, and seeks discovery concerning, the "relationship of BP's commercial interests in obtaining regulatory approval of the Crown Landing project to New Jersey's decision to bring this action." By granting New Jersey leave to file its Bill of Complaint, the Court has already – at least implicitly – determined that New Jersey is a real party in interest and that the Court does have jurisdiction over this dispute.

That implicit holding is reinforced by the fact that, in response to New Jersey's attempt to obtain permission to file a Petition to Reopen No. 11, Original, Delaware argued that the Court "lacks jurisdiction over this dispute, which in reality is between BP and Delaware, not two states." (Def. Opp. to Mot. to Reopen & for Supp. Decree at 21.) Thus, the Court must have considered the matter in deciding to grant New Jersey leave to file its Bill of Complaint. In light of that determination and in the absence of any instruction from the Court to reconsider Delaware's

jurisdictional arguments, it is inappropriate for the Special Master to reconsider the Court's implicit ruling that BP's role in urging or assisting New Jersey in the pursuit of this action is insufficient to defeat the Court's original jurisdiction.

Apart from the Court's implicit ruling, it is clear in any event that New Jersey is a real party in interest – even assuming the level of involvement by BP that Delaware suggests. New Jersey seeks to enforce its sovereign rights to whatever riparian jurisdiction is reserved to it under the Compact. The possibility that BP might benefit from a ruling in New Jersey's favor does not eliminate New Jersey's own independent interest in pursuing this original action against a sister state. Even the assumption – or the fact – that BP is funding New Jersey's litigation costs, providing tactical litigation support, operating under a "common interest" agreement and otherwise attempting to persuade or even goad New Jersey into filing and pursuing this action, could not negate New Jersey's own interest in enforcing its sovereign interests under the Compact.

Delaware recognizes in its brief that "the relief New Jersey seeks goes well beyond BP's project." (Def. Opp. to Mot. to Strike Issues of Fact at 21.) That does indeed appear to be the case, in that New Jersey is seeking resolution of a long-disputed question of interpretation of the Compact that, although implicated most recently by the Crown Landing facility, extends beyond any single project. It is apparent that New Jersey does have a legitimate interest in this dispute and is a real party in interest. Accordingly, discovery into the relationship between BP's commercial interests in obtaining regulatory approval of the Crown Landing project to New Jersey's decision to

bring this action cannot lead to the production of admissible evidence bearing on the central issue in dispute in this case.[1]

3. *Delaware's Proposed Issue of Fact No. 6*: New Jersey's motion to strike is denied.

Delaware has identified as a factual issue, and seeks discovery related to, whether "other projects previously approved by New Jersey within the twelve-mile circle required the dredging of Delaware's submerged land," and if so whether "the dredging has been on a scale commensurate with BP's Crown Landing project." As discussed above, to the extent the Compact is found to be ambiguous, interpretation of the meaning of the wording of the Compact

[1] Because the Special Master has determined that discovery into the relationship between BP and New Jersey in causing the latter to bring this suit is inappropriate for the reasons stated above, it is unnecessary to resolve New Jersey's other bases for precluding discovery into the role BP might have played in New Jersey's decision to bring this action. (*See* Pl. Mot. to Strike Issues of Fact at 19-21; Pl. Reply in Supp. Mot. to Strike Issues of Fact at 11, 16-17.) Delaware also posits that it is "entitled to discovery on whether an alternative site for BP's LNG facility exists that would not necessitate encroachment on Delaware's soil." (Def. Opp. to Motion to Strike Issues of Fact at 10.) It is unclear how that relates to the Court's jurisdiction. This is an original jurisdiction action involving a dispute over the states' sovereignty and riparian rights on New Jersey's side of the Delaware River within the twelve-mile circle. The Court is not asked to evaluate the merits of the proposed LNG facility or its overall compatibility with state law. Thus, information regarding alternative locations within New Jersey for an LNG facility will not assist in determining the meaning of the Compact. The Court must resolve whether New Jersey or Delaware or conceivably both has/have jurisdiction under the Compact to regulate facilities such as the proposed LNG facility within the twelve-mile circle – not anywhere else within New Jersey's borders where such a facility might be constructed.

might entail a review of the parties' course of conduct in the 101 years since the Compact's ratification.

New Jersey now concedes that it "does not object to this issue, to the extent it contemplates discovery concerning other projects previously approved by New Jersey within the Twelve-Mile Circle that have involved dredging." (Pl. Reply in Supp. of Mot. to Strike Issues of Fact at 18.) As New Jersey now agrees, "such projects are part of the States' course of performance under the 1905 Compact." (*Id.*)

New Jersey's only apparent remaining objection is that the Crown Landing project "is the subject of voluminous public filings containing detailed information on the scope and status of the project," so Delaware should look there for information. (*Id.* at 19.) However, the fact that many documents concerning the Crown Landing project might be available from public sources has no bearing on whether responsive documents concerning other projects – which is the subject of Delaware's Issue of Fact No. 6 – are readily available from public sources. New Jersey has not identified any such public repository from which Delaware could easily obtain such files. Thus, as New Jersey essentially concedes, because Delaware's Issue of Fact No. 6 is relevant, discovery should be permitted.

4. *Delaware's Proposed Issue of Fact No. 8*: New Jersey's motion to strike is denied.

Delaware seeks discovery regarding "the nature and scope of BP's Crown Landing liquefied natural gas unloading facility." Under Delaware's apparent theory of the case,

> for New Jersey to prevail, it will have to prove not only that, in the 1905 Compact, Delaware

> relinquished authority over projects built on Delaware's land within the twelve-mile circle, but also that a project of both the nature and the scope of the Crown Landing facility was within Delaware's contemplation when it was alleged to have relinquished its sovereign right to regulate activities on its lands.

(Def. Opp. to Mot. to Strike Issues of Fact at 23.)

Although the main issue in this case is the existence and scope of riparian jurisdiction reserved to New Jersey under the Compact, this dispute is set against the background of Delaware's denial of the Crown Landing project in particular. Such information arguably is relevant to "Delaware's argument that the Crown Landing facility is qualitatively different from the types of projects within the contemplation of each State at the time the 1905 Compact was drafted and ratified." (Def. Opp. to Motion to Strike at 24.) Again, while BP is not a party to this original action and New Jersey is properly asserting sovereign interests distinct from the interests of BP alone, the Crown Landing project is the catalyst for this proceeding and information concerning that project arguably could be relevant in providing further context. To the extent extrinsic evidence is found necessary to construe the Compact, a comparison of the proposed LNG facility to past projects possibly could be of some relevance in evaluating the states' contentions regarding the meaning of the Compact.

The only remaining issue is whether there is some alternative public source from which Delaware could obtain the requested materials that would avoid unnecessary discovery costs, as New Jersey suggests. Mindful of the states' mutual interest in avoiding unnecessary discovery costs, and in light of the apparent public availability of at

least a significant portion of the documents related to the Crown Landing project, the Order below sets forth the approach that the states are to follow. The Special Master assumes that the states will continue to work together cooperatively in this regard, as they have to date in this litigation, to avoid disputes in following the approach set forth in this Order.

6. *Delaware's Proposed Issue of Fact No. 9*: New Jersey's motion to strike is granted.

Delaware seeks discovery pertaining to whether BP has "obtained all necessary New Jersey government permits for the Crown Landing project," in order to determine "whether the case is ripe and, therefore, whether this Court has jurisdiction over the dispute." (Def. Opp. to Motion to Strike Issues of Fact at 25.)

New Jersey has alleged in response that, because Delaware has asserted jurisdiction over the BP project and has declined to permit BP to conduct sediment sampling from the Delaware River that is necessary for permitting under New Jersey's regulations, New Jersey is unable to complete any review of the BP proposal as a result of Delaware's actions. Under Delaware's theory, then, New Jersey's claim would never fully ripen as a result of Delaware's assertion of jurisdiction over the BP project. Under those circumstances, the matter is ripe for review in this original action.

In addition, for the reasons set forth in Section 2 above, New Jersey itself is a real party in interest by virtue of its claim that Delaware inappropriately is attempting to regulate matters on New Jersey's shores. Thus, discovery concerning whether BP has already obtained permits from New Jersey for the development of

the Crown Landing facility cannot lead to the production of admissible evidence relevant to the issues involved in this original action.

CONCLUSION

For the foregoing reasons, after full consideration of the states' written submissions and following oral argument by counsel, it is hereby ORDERED that:

New Jersey's Motion to Strike Delaware's Proposed Issues of Fact Nos. 1, 2, 6, 8 and 9 and to Preclude Discovery on These Issues is GRANTED IN PART AND DENIED IN PART, as follows:

The Motion is GRANTED as to Delaware's Issues of Fact Nos. 1, 2 and 9;

The Motion is DENIED as to Delaware's Issues of Fact Nos. 6 and 8; and

With respect to Delaware's Issue of Fact No. 8: Delaware shall first attempt to obtain the documents it seeks from public sources. New Jersey shall help Delaware in identifying the locations of such public documents, to the extent Delaware is not already aware of such filings. Once Delaware has obtained the requested documents from public sources, it will then be entitled to obtain from New Jersey any remaining requested documents that are not publicly available and that reasonably bear on this issue.

Dated: June 13, 2006

/s/ Ralph I. Lancaster, Jr.
Ralph I. Lancaster, Jr.
Special Master

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APPENDIX G
New Jersey's Proposed Judgment
No. 134, Original

In The
Supreme Court of the United States

STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

NEW JERSEY'S PROPOSED DECREE

The Court having exercised original jurisdiction to determine the rights of the States of New Jersey and Delaware under the Compact of 1905; and the issues raised having been tried before the Special Master appointed by the Court;

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Compact of 1905 between the State of New Jersey and the State of Delaware grants exclusive State riparian jurisdiction to New Jersey to regulate all aspects of the construction, maintenance and use of improvements appurtenant to the New Jersey shore of the Delaware River within the Twelve Mile Circle that extend outshore of the mean low water line. The Compact also grants New Jersey exclusive State jurisdiction over vessels using or attaching to such improvements.

2. The Compact of 1905 authorizes New Jersey to convey those grants, leases, licenses or other interests in the bed of the Delaware River within the Twelve Mile Circle outshore of the mean low water line that are reasonably related to the exercise of its jurisdiction under paragraph 1.

3. Delaware is enjoined from requiring any permit, license, lease, certification, determination or other authorization for the construction, maintenance or use [of] a riparian improvement appurtenant to the New Jersey shore of the Delaware River within the Twelve Mile Circle.

4. The Court retains jurisdiction to entertain such further proceedings, enter such orders, and issue such writs as may from time to time be considered necessary or desirable to give proper force and effect to this Decree or to effectuate the rights of the parties.

5. The party States shall share equally in the compensation of the Special Master and his assistants, and in the expenses of this litigation incurred by the Special Master.

APPENDIX H
Delaware's Proposed Judgment

No. 134, Original

In The
Supreme Court of the United States

STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

DELAWARE'S PROPOSED FORM OF JUDGMENT

The Special Master having ruled on Delaware's and New Jersey's cross-motions for summary judgment, I hereby recommend that the Court issue the following decree:

It is now ORDERED, ADJUDGED, and DECREED as follows:

1. New Jersey's request for relief is denied and its complaint is dismissed with prejudice.

2. Under the 1905 Compact and this Court's decision in *New Jersey v. Delaware*, 291 U.S. 361 (1934), New Jersey lacks any jurisdiction within the twelve-mile circle to regulate proposed or existing improvements on Delaware

lands, regardless of whether they originate in New Jersey; or to grant, lease, or convey Delaware lands. Accordingly, BP's proposed Crown Landing facility is subject to regulation under the Delaware Coastal Zone Act.

3. New Jersey is enjoined within the twelve-mile circle from exercising any riparian jurisdiction beyond its border with Delaware and from granting, leasing, or conveying Delaware lands.

4. The parties shall share equally in the compensation of the Special Master and the costs incurred by him in the exercise of his duties.

5. The Court retains jurisdiction of this cause for the purpose of issuing any order or direction which it may at any time deem to be proper in order to carry into effect any of the provisions of this decree.

APPENDIX I
Table of Actions by Delaware and New Jersey Reflecting an Assertion of Jurisdiction or Authority Over the Eastern Shore of the Delaware River

Actions Prior to Adoption of Compact of 1905

Date	Category of Action	Specific Action	State Asserting Jurisdiction or Authority
May 27, 1813	Legislation	Delaware adopted an Act (Del. Laws 1829, p. 673) ceding to the United States jurisdiction over Pea Patch Island on the Delaware River within the twelve-mile circle. By implication, Delaware was asserting jurisdiction over this island.	Delaware
1846	Legislation	New Jersey enacted a law setting the boundary line of Salem County at the main shipping channel of the Delaware River. 846 N.J. Laws, approved April 10, 1846, 2 Comp. Stat. 1690.	New Jersey

1852	Legislation	Delaware adopted the Boundary Act of 1852, stating that the limits of Delaware extend to the "low water mark on the eastern side of the Delaware River, within the twelve mile circle from New Castle."	Delaware
1854	Legislation, Wharfage	New Jersey adopted 1854 N.J. Laws ch. 143, p. 375, pertaining to the construction of docks, piers or wharves by Thomas D. Broadway, et al., in front of their lands at Pennsville in the Township of Lower Penns Neck, Salem County, New Jersey.	New Jersey
1855	Legislation, Wharfage	New Jersey adopted 1855 N.J. Laws ch. 109, p. 274, incorporating the Pennsgrove Pier Company and pertaining to construction of a wharf or pier extending from the mainland into the Delaware River at the Village of Pennsgrove.	New Jersey
1870	Legislation, Wharfage	New Jersey Legislature adopted 1870 N.J. Laws ch. 131, p. 346, pertaining to the construction of wharves, piers and bulkheads by Robert Walker, et al., in	New Jersey

		front of their lands in the Township of Upper Penns Neck (now Pennsville).	
1870	Legislation, Wharfage	New Jersey adopted 1870 N.J. Laws ch. 344, p. 726, pertaining to construction of a dock or wharf by Joseph Guest in front of his lands in the Township of Upper Penns Neck, (now Pennsville) Salem County, New Jersey.	New Jersey
1871	Legislation, Wharfage	New Jersey adopted 1871 N.J. Laws ch. 307, p. 758, pertaining to construction of wharves or piers by Henry Barber in front of his lands in the Township of Upper Penns Neck, (now Pennsville) Salem County, New Jersey.	New Jersey
1871	Legislation	New Jersey adopted 1871 N.J. Laws, c. 256, pertaining to grants and leases of tidally-flowed underwater lands outshore of the mean high water line by the New Jersey Board of Riparian Commissioners and Governor. See N.J. Stat. Ann. 12:3-10.	New Jersey
May 2, 1872	Arrests	Delaware officials arrested twenty-two fishermen from New Jersey for fishing within the	Delaware

		twelve-mile circle without a license from Delaware, pursuant to "An Act for the Protection of Fishermen," enacted by Delaware on March 28, 1871.	
May 8, 1872	Proclamation	New Jersey Governor Joel Parker issued a proclamation asserting New Jersey's claim to jurisdiction over that part of Delaware River between the States that is easterly of the middle of the river and "warn[ing] all persons not to molest, disturb, arrest, or attempt to arrest, without lawful process, issued by some legal authority in this State, any citizen of New Jersey, at any place within her jurisdiction."	New Jersey
May 14, 1872	Proclamation	Delaware Governor James Ponder responded to Governor Parker's proclamation by asserting, "The State of Delaware does not regard the question as to her jurisdiction over the said river and bay, as claimed by her, as an open question. The jurisdiction thus claimed is exclusive over the waters of said river to low water mark, on the eastern	Delaware

		side of said river, within the twelve mile circle from New Castle, and is regarded by said State as paramount to any which may be claimed by any other State."	
March 13, 1877	Pleadings	New Jersey filed a bill of complaint and motion for preliminary injunction against Delaware in a case before the Supreme Court of the United States, No. 1, Original (*New Jersey v. Delaware I*). New Jersey claimed to own in fee simple the bed of the Delaware River from the New Jersey shore to the middle of the river, and claimed that on every part of the waters of the Delaware River it had and was entitled to an equal interest and concurrent jurisdiction with Delaware.	New Jersey
November 3, 1877	Regulation, Wharfage	The Board of Riparian Commissioners of the State of New Jersey (Riparian Commissioners) adopted pierhead and bulkhead lines for a portion of the Delaware River within the twelve-mile circle offshore of the County of Gloucester and the County of Salem.	New Jersey

February 17, 1883	Grants/Leases	New Jersey issued a tidelands grant to Daniel H. Kent of Wilmington, Delaware, which by its terms includes submerged lands. By its terms, Tract 1 of the February 17, 1883 grant extends 300 feet on one side and 400 feet on the other to the exterior line established by the Riparian Commissioners in the Delaware River and Salem Cove in 1877, and is described as "flowed by tide water lying in the Township of Elsinboro."	New Jersey
September 15, 1891	Grants/Leases	New Jersey issued a tidelands grant to Annie E. Brown. By its terms, the 1891 grant to Annie E. Brown extended 850 feet on one side into the Delaware River and 850 feet on the other to the Exterior Line of the New Jersey Board of Riparian Commissioners and is described as pertaining to property "flowed by tide water lying in Pennsville in the Township of Lower Penn's Neck. . . ."	New Jersey

November 27, 1891	Grants/Leases	New Jersey issued a tidelands grant to Eugene DuPont, et al., all of New Castle County, Delaware, trading as E.I. DuPont de Nemours and Company ("Dupont") (the November 27, 1891 grant). The property covered by the November 27, 1891 grant is within the twelve-mile circle, and extends from high water into the Delaware River 550 feet to the New Jersey Board of Riparian Commissioners' Exterior Line.	New Jersey
October 15, 1901	Pleadings	Delaware filed its Answer in *New Jersey v. Delaware I* denying New Jersey's claims and averring, *inter alia*, that Delaware is the owner of the whole bed of the Delaware River and of the river itself within the twelve mile circle to the low-water mark on the New Jersey shore.	Delaware

Actions After Adoption of Compact of 1905 and Prior to *New Jersey v. Delaware II*

May 16, 1906	Grants/Leases	New Jersey issued a tidelands grant to James A. Denny, et al., covering property offshore of what is now known as Block 1, Lot 4, Penns Grove Borough, within the twelve-mile circle, and by the terms of the grant extending 500 feet waterward of high water into the Delaware River.	New Jersey
March 29, 1907	Legislation	New Jersey adopted an act to cede to the United States submerged land within the twelve-mile circle east of the ship channel. By implication, New Jersey was asserting jurisdiction over that land.	New Jersey
April 4, 1907	Legislation	Delaware adopted an Act to cede to the United States the same submerged land within the twelve-mile circle east of the ship channel as is referenced in the preceding paragraph. By implication, Delaware was asserting jurisdiction over that land.	Delaware

1914	Legislation	New Jersey adopted the Waterfront Development Law, 1914 N.J. Laws c. 123, pertaining to construction of waterfront developments such as a bulkhead, pier, wharf, dock. bridge, pipe line or cable. See N.J. Stat. Ann. 12:5-1 et seq. Thereafter, grants of submerged land within the twelve-mile circle specified that improvements required a permit.	New Jersey
1915	Legislation	Delaware adopted the Boundary Act of 1915, declaring the limits of the State to extend to the low water mark on the Eastern side of the Delaware River within the twelve-mile circle.	Delaware
1916	Regulation	New Jersey Board of Commerce and Navigation adopted new pierhead and bulkhead lines for the eastern shore of the Delaware River within the twelve-mile circle and outshore of the mean low water line.	New Jersey

March 21, 1916	Grants/Leases	New Jersey issued a tidelands grant to Pennsgrove Pier Co. (the March 21, 1916 grant), by its terms covering property offshore of Penns Grove Borough, Salem County, New Jersey that extends 885 feet on one side and 975 feet on the other to the New Jersey Pierhead and Bulkhead line.	New Jersey
March 27, 1916	Grants/Leases	New Jersey issued a tidelands lease to Harry S. Barber (the March 27, 1916 lease), by its terms covering property outshore of Block 54, Lots 1 and 2, Penns Grove Borough, extending 575 feet from the high water line into the Delaware River.	New Jersey
August 21, 1916	Regulation, Wharfage	New Jersey Board of Commerce and Navigation adopted pierhead and bulkhead lines on part of the eastern portion of the Delaware River, outshore of mean low water within the twelve-mile circle (the New Jersey Pierhead and Bulkhead Lines (1916)).	New Jersey

August 21, 1916	Grants/Leases	New Jersey issued a tidelands grant to DuPont (the August 21, 1916 grant), by its terms including nine tracts within the twelve-mile circle in either Pennsville Township, Carneys Point Township or Penns Grove Township. The tracts included in the August 21, 1916 grant extend from the high water mark into the Delaware River various distances, from 202 feet on one side of Tract One to 4,222.1 feet on one side of Tract Seven.	New Jersey
November 20, 1916	Grants/Leases	New Jersey issued a tidelands grant to DuPont, by its terms covering property offshore of what is now known as Block 301, Lot 1, Pennsville Township, at Deep Water Point, and within the twelve-mile circle (the November 20, 1916 grant). By its terms, the November 20, 1916 grant extends 661.3 feet from high water on one side and 650 feet on the other, into the Delaware River, both to the New Jersey Pierhead and Bulkhead line (1916).	New Jersey

March 27, 1917	Legislation	New Jersey passed a law granting jurisdiction over and title to lands in the Delaware River to the United States for bulkhead and fill. 1917 N.J. Laws ch. 189.	New Jersey
July 16, 1917	Grants/Leases	New Jersey issued a tidelands grant to DuPont, by its terms consisting of two tracts that are offshore of what is now known as Block 1 or 301, Lot 1, Pennsville Township, and within the twelve-mile circle (the July 16, 1917 grant). By its terms the July 16, 1917 grant extends 668 feet on one side of tract 1, and 648 feet on both sides of tract 2, offshore of the high water line and into the Delaware River, all to the New Jersey Pierhead and Bulkhead line (1916) and by its terms is described as property "flowed by tide water situate at Deep Water Point, in the County of Salem. . . ."	New Jersey
1918-1939	Grants/Leases	New Jersey State granted a tidelands lease to DuPont dated May 20, 1918 (the May 20, 1918 lease).	New Jersey

October 17, 1921	Grants/Leases	New Jersey issued a tidelands grant to French's Hotel Company, by its terms covering property offshore of what is now known as Block 57, Lot 1, Penns Grove Borough, and within the twelve-mile circle (the October 17, 1921 grant). By the terms of the grant, the property covered by the October 17, 1921 grant extends offshore from the high water mark 1,135.38 feet on one side and 1,283.86 feet on the other, and into the Delaware River.	New Jersey
February 19, 1923	Grants/Leases	New Jersey issued a tidelands grant to William D. Acton, by its terms covering property now offshore of Pennsville Township, within the twelve-mile circle (the February 19, 1923 grant). The property covered by the February 19, 1923 grant extends 333.52 feet from the high water line to the corner of a pre-existing pier, and another 580 feet further waterward to the 1916 pierhead and bulkhead line on one side, and 360.75 feet from the original high water line to a corner of the pre-existing pier, and another 572.66 feet further waterward to the New Jersey Pierhead and Bulkhead line	New Jersey

		(1916), on the other side. The February 19, 1923 grant refers to a pier.	
November 19, 1923	Grants/Leases	New Jersey issued a tidelands grant to William D. Acton, by its terms covering property extending 970 feet on one side from the high water mark into the Delaware River, and 964 feet from the high water line on the other side to the 1916 pierhead and bulkhead line, outshore of the Township of Lower Penns Neck, Salem County, New Jersey.	New Jersey
August 18, 1924	Grants/Leases	New Jersey issued a tidelands lease to Fogg and Hires Company for 15 years (the Fogg and Hires lease), by its terms covering property offshore of what is now known as Block 2801, Lot 6, Pennsville Township, at the foot of Ferry Road, and within the twelve-mile circle. By its terms the property covered by the Fogg and Hires Co. lease extended 985.44 feet offshore from the high water line of the Delaware River on one side and an approximately equal	New Jersey

		distance offshore on the other side to the New Jersey Pierhead and Bulkhead line (1916). The Fogg and Hires Co. lease was cancelled May 18, 1930 and replaced with a State of New Jersey grant to the Delaware – New Jersey Ferry Company dated May 19, 1930, which grant encompassed a property with the same dimensions and location as the Fogg and Hires lease.	
April 14, 1925	Legislation	Delaware adopted an Act (34 Del. L. p. 6) to cede to the United States 605 acres of lands within the twelve-mile circle, to the low water mark on the easterly side of the Delaware River, for the purpose of constructing a basin for the reception of material dredged from the channel of the Delaware River. By implication, Delaware was asserting jurisdiction over those lands.	Delaware
August 17, 1925	Grants/Leases	New Jersey issued a tidelands grant to William D. Acton , by its terms covering property that extends 863.21 feet from the	New Jersey

		high water line into the Delaware River on one side, and 853.87 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916), offshore of Lower Penns Neck (now Pennsville Township), Salem County, New Jersey.	
August 17, 1925	Grants/Leases	New Jersey issued a second tidelands grant to William D. Acton, by its terms covering property located offshore of Lower Penns Neck (now Pennsville Township), Salem County, New Jersey, that extends 965.40 feet on one side and 966.63 feet on the other beyond the former high water line of the Delaware River to the New Jersey Pierhead and Bulkhead line (1916). The records of the Army Corps of Engineers indicate that a permit was issued to W.D. Acton to construct a Timber Pier to be located offshore of the North side of Pittsfield Street, Pennsville, and that the pier completed May 22, 1926 was 550 feet long.	New Jersey

September 21, 1925	Grants/Leases	New Jersey issued a tidelands grant to the Township of Lower Penns Neck (the September 21, 1925 grant), covering property that is now offshore of Pennsville Township, within the twelve-mile circle. By its terms, the property covered by the September 21, 1925 grant extends 966.83 feet on one side and 969.91 feet on the other, outshore of the former high water line of the Delaware River.	New Jersey
October 19, 1925	Grants/Leases	New Jersey issued a tidelands grant to William D. Acton, by its terms covering property that is now outshore of Pennsville Township, within the twelve-mile circle (the October 19, 1925 grant). By the terms of the grant, the property covered by the October 19, 1925 grant extends waterward from the former high water line 360.75 feet to a point on an adjoining pier, and then another 572.66 feet into the Delaware River on one side to the New Jersey Pierhead and Bulkhead Lines	New Jersey

		(1916), and 375.41 feet to a point waterward and then another 565.67 feet further waterward into the Delaware River to the New Jersey Pierhead and Bulkhead line (1916) on the other side.	
1925	Fishing	Oyster boats from Delaware dredged and took many thousands of bushels of seed oysters from subaqueous lands claimed by New Jersey.	Delaware
February 21, 1927	Legislation	Delaware adopted an Act (35 Del. L. pp. 6-8) to cede to the United States 1,541 acres of submerged lands within the twelve-mile circle, to the low water mark on the easterly side of the Delaware River, for the purpose of constructing a basin for the reception of material dredged from the channel of the Delaware River. By implication, Delaware was asserting jurisdiction over those lands.	Delaware
June 19, 1928	Grants/Leases	New Jersey issued a tidelands grant to The Franklin Real Estate Company by its	New Jersey

		terms covering property that is now offshore of Block 301, Lot 13, Pennsville Township, within the twelve-mile circle, and that extends 991.46 feet from high water into the Delaware River on one side and 827.70 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).	
April 15, 1929	Grants/Leases	New Jersey issued a tidelands grant to William G. Locuson (the William Locuson grant) covering property offshore of what is now known as Block 301, Lot 9, Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the William Locuson grant extends 827.70 feet waterward of the high water line on one side and 823.60 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).	New Jersey
April 15, 1929	Grants/Leases	New Jersey issued a tidelands grant to Anna C.B. Locuson (the Anna Locuson grant), by its terms covering property	New Jersey

		located offshore of Pennsville Township, and within the twelve-mile circle, that extends 813.97 feet into the Delaware River from the high water line on one side and 809.16 feet from the high water line on the other, both to the New Jersey Pierhead and Bulkhead Lines (1916).	
April 15, 1929	Grants/Leases	New Jersey issued a tidelands grant to Josephine Grace Locuson, et al., (the Josephine Locuson grant), covering property offshore of Pennsville Township and within the twelve-mile circle, that by its terms extends from the high water line of the Delaware River waterward 813.97 feet on one side and approximately 818.78 feet on the other, both to the New Jersey Pierhead and Bulkhead Line (1916).	New Jersey
April 15, 1929	Grants/Leases	New Jersey issued a tidelands grant to Josephine Grace Locuson, et al., (the second Josephine Locuson grant), covering property offshore of Pennsville Township, and within the twelve-mile circle, that by	New Jersey

		its terms extends from the high water mark 823.60 feet on one side and 818.78 feet on the other, into the Delaware River, both to the New Jersey Pierhead and Bulkhead line (1916).	
June 3, 1929	Pleadings	New Jersey filed a complaint against the State of Delaware in the Supreme Court asserting title to half the river, originally docketed as No. 19, Original (October Term, 1929) (*New Jersey v. Delaware II*).	New Jersey
June 17, 1929	Grants/Leases	New Jersey issued a tidelands grant to Josephine Grace Locuson et al. (the June 17, 1929 grant), covering property offshore of Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the June 17, 1929 grant extends from the high water line 809.16 feet into the Delaware River on one side and 797.42 feet on the other, both to the New Jersey Pierhead and Bulkhead line (1916).	New Jersey

October 9, 1929	Pleadings	Delaware filed its Answer in *New Jersey v. Delaware II*, denying New Jersey's assertions.	Delaware
October 21, 1929	Grants/Leases	New Jersey issued a tidelands grant to DuPont (the October 21, 1929 grant), covering property offshore of what is now known as Block 1 or 301, Lot 1, Pennsville Township, within the twelve-mile circle. By the terms of the grant, the property covered by the October 21, 1929 grant extends from the mean high water mark 648 feet into the Delaware River to the New Jersey Pierhead and Bulkhead line (1916).	New Jersey
October 21, 1929	Grants/Leases	New Jersey issued a tidelands license to the Delaware River Power Company (the October 21, 1929 license), covering property offshore of Pennsville Township within the twelve-mile circle. By its terms the October 21, 1929 license allows for eight armored submarine electric cables at Deep Water Point.	New Jersey

October 21, 1929	Grants/Leases	New Jersey issued a tidelands lease to the Penn Beach Property Owners' Association (the October 21, 1929 lease). By its terms the property covered by the October 21, 1929 lease was a "tract of land flowed by tide-water situate in the Township of Lower Penns Neck," Salem County, and extended 429.49 feet beyond the mean high water line on one side and 430.70 feet on the other to the New Jersey Pierhead and Bulkhead Lines (1916).	New Jersey

Actions After Issuance of the Opinion and Decree in *New Jersey v. Delaware II*

September 16, 1935	Grants/Leases	New Jersey issued a tidelands grant to J. Landis Strickler covering property outshore of Block 54, Lot 1, Penns Grove Borough that extends 249.36 feet waterward of the center line of Delaware Avenue.	New Jersey
September 13, 1943	Grants/Leases	New Jersey issued a tidelands grant to DuPont (the September 13, 1943 grant).	New Jersey

October 14, 1957	Grants/Leases	New Jersey issued a tidelands grant to Sun Oil Company (the October 14, 1957 grant) covering property outshore of what is now known as Block 101, Lots 2 and 5, Logan Township, Gloucester County, and within the twelve-mile circle. The property covered by the October 14, 1957 grant extends 1,245 feet from the mean high water line on one side and 1,245.82 feet on the other into the Delaware River.	New Jersey
March 31, 1960	Grants/Leases	New Jersey issued a tidelands grant to DuPont (the March 31, 1960 grant), covering property outshore of Pennsville Township, within the twelve-mile circle. The property covered by the March 31, 1960 grant extends 1,027.61 feet waterward of the high water line of the Delaware River on one side and 1,096 feet on the other, both sides out to the New Jersey Pierhead and Bulkhead line (1916). The March 31, 1960 grant includes as a second tract a further area	New Jersey

		100 feet waterward of the New Jersey Pierhead and Bulkhead line (1916).	
January 11, 1962	Grants/Leases	Delaware entered into a twenty-year subaqueous land lease allowing the SunOlin Chemical Company to use Delaware subaqueous soil within the twelve-mile circle to construct, maintain, repair, replace, renew and operate submarine pipelines across the Delaware River from Claymont, Delaware to Gloucester County, New Jersey. Delaware renewed this lease on November 14, 1981 for a period of ten years. This lease was again renewed on October 15, 1991 for a period of ten years, and on May 15, 2002 for a period of twenty years.	Delaware
October 9, 1963	Grants/Leases	Delaware entered into a ten-year subaqueous land lease allowing the Colonial Pipeline Company to use Delaware subaqueous soil within the twelve-mile circle near Logan Township, New Jersey to construct, maintain, inspect, operate,	Delaware

		renew, replace, repair, improve and remove submarine pipelines, from Claymont, Delaware to Logan Township, Gloucester County, New Jersey.	
September 29, 1967	Grants/Leases	New Jersey issued a tidelands grant to DuPont (the September 29, 1967 grant). By the terms of the grant, the property covered by the September 29, 1967 grant is outshore of Pennsville Township and abuts to the north the March 31, 1960 grant to DuPont. The property covered by the September 29, 1967 grant extends 1,096 feet waterward of the high water line of the Delaware River on one side and 1,155 feet on the other.	New Jersey
September 29, 1971	Grants/Leases	Delaware granted a ten-year lease to allow DuPont to dredge Delaware subaqueous soil, build a dock, and construct a fuel oil storage tank at the DuPont Chambers Works facility within the twelve-mile circle near the New Jersey shore. By its terms, the lease is "without	Delaware

		prejudice to the title claim of either party."	
December 1971	Regulation, Wharfage	El Paso Eastern Company submitted a proposal to construct a liquefied natural gas ("LNG") facility in New Jersey, which included a proposal to build a pier from the New Jersey shore into Delaware within the twelve-mile circle. On February 23, 1972, Delaware issued a status decision stating that El Paso's proposal was a prohibited use under the DCZA.	Delaware
September 16, 1977	Regulation	New Jersey Department of Environmental Protection ("NJDEP") issued a permit to Dupont for maintenance dredging at Dupont's Chambers Works facility beyond the low water line of the Delaware River, within the twelve-mile circle.	New Jersey
1977	Regulation	NJDEP issued to Dupont a permit to dismantle and remove wastewater outfall structures in the Delaware River within the twelve-mile circle.	New Jersey

March 18, 1982	Regulation	Delaware issued a Letter of Authorization to DuPont in Deepwater, New Jersey by its terms allowing DuPont to repair and replace an existing 36 pile cluster in subaqueous soil within the twelve-mile circle outshore of low water.	Delaware
1982	Regulation	NJDEP issued a waterfront development permit and water quality certificate for the DuPont facility in Carneys Point and Pennsville, New Jersey, by the terms of the permit allowing dredging of the berth area of an existing pier.	New Jersey
1982	Regulation	NJDEP issued to DuPont a waterfront development permit for a new sheet piling cell, by its terms allowing replacement of an existing timber cluster on the Delaware River, at Dupont's Chambers Works Plant in Deepwater, New Jersey.	Delaware
1987	Regulation	NJDEP issued New Jersey Pollution Discharge Elimination System permit NJ0005100DSW to Dupont, allowing it to	New Jersey

		discharge effluent from its Chambers Works facility in Pennsville Township, New Jersey, into the Delaware River.	
July 28, 1987	Regulation	Delaware entered into a ten-year subaqueous lands lease allowing the Columbia Gas Transmission Corp. to construct a submerged natural gas pipeline across the Delaware River within the twelve-mile circle. The lease also allowed Columbia Gas to dredge 552 cubic yards of material from subaqueous lands within the twelve-mile circle. This lease was renewed on January 8, 1998.	Delaware
August 3, 1987	Regulation	Delaware entered into a ten-year subaqueous lands lease allowing the Colonial Pipeline Company to construct a 30 inch submerged petroleum pipeline across the Delaware River within the twelve-mile circle, and dredge subaqueous lands within the twelve-mile circle.	Delaware

July 13, 1990	Regulation	Keystone Cogeneration Systems Inc., currently known as the Logan Generating Company, applied to Delaware's Department of Natural Resources and Environmental Control ("DNREC") for a status decision relating to its proposal to build a 200 megawatt coal-fueled cogeneration facility in Logan Township, New Jersey, including a 1,100 pier extending from the New Jersey shore into Delaware territory within the twelve-mile circle. In a status decision dated November 19, 1990, DNREC determined that the Keystone project did not constitute a prohibited bulk product transfer facility under the DZCA and that a permit under the DCZA was required. DNREC issued a coastal zone permit to Keystone on December 13, 1991.	Delaware
September 30, 1991	Regulation	DNREC issued a subaqueous lands lease by its terms permitting the construction of the coal unloading pier and permitting the	Delaware

		dredging of 40,000 cubic yards of material from the Delaware River within the twelve-mile circle. On May 28, 1993, Delaware issued additional approvals for the Keystone facility to allow for a modification of pier dimensions. On March 15, 1995, Delaware issued a letter of authorization for a one year extension of the subaqueous lands permit issued on September 30, 1991, and provided permission to dredge an additional 13,750 cubic yards of material within the twelve-mile circle. On November 12, 1997, Delaware issued a letter of authorization for maintenance dredging at the facility. On November 9, 2001, Delaware issued a renewal to maintain a pier, docks and dolphins at the facility.	
September 24, 1991	Regulation	NJDEP issued to Keystone Cogeneration Systems Inc. in Logan Township, New Jersey, stream encroachment, waterfront development and freshwater wetlands	New Jersey

		permits and a Water Quality Certificate, for a coal unloading facility and a 1600-foot approach-way pier.	
June 12, 1992	Regulation	New Jersey issued a lease to Keystone Urban Renewal Limited Partnership (the June 12, 1992 lease), by its terms covering property outshore of what is now known as Block 101, Lots 2 and 5, Logan Township, Gloucester County and outshore of part of the property covered by the October 14, 1957 Grant to the Sun Oil Company. By its terms, the property covered by the June 12, 1992 lease extends approximately 1,600 feet offshore of the original mean high water line into the Delaware River, within the twelve-mile circle.	New Jersey
September 1995	Grants/Leases	NJDEP Division of Parks and Forestry applied to DNREC for a subaqueous land lease to permit New Jersey to rehabilitate a pier and construct a new floating ferry dock on Delaware subaqueous soil within the twelve-mile	Delaware

		circle near Fort Mott State Park in Pennsville Township, New Jersey. On February 7, 1996, Delaware entered into a ten-year subaqueous land lease with the NJDEP Division of Parks and Forestry.	
January 24, 1996	Regulation	NJDEP issued a waterfront development permit to NJDEP's Division of Parks and Forestry for the rehabilitation of the historic pier at Fort Mott State Park in Pennsville Township, and other work specified in the permit.	New Jersey
1996	Regulation	NJDEP issued and renewed in 2005 a water allocation permit for the Keystone Cogeneration Systems, Inc. facility located in Logan Township. The water allocation permit allows the facility to withdraw up to 108.5 million gallons of water per month from the Delaware River through an intake structure located beyond the low water line, within the twelve-mile circle, that extends approximately 1,600 feet into the Delaware River.	New Jersey

December 9, 1997	Grants/Leases	Delaware entered into a ten-year subaqueous land lease allowing Delmarva Power and Light Company to install 3,755 linear feet of submarine fiber optic cable in the Delaware River within the twelve-mile circle extending from Pigeon Point in New Castle County, Delaware, to Deepwater Point in New Jersey. This lease was amended on March 11, 2002.	Delaware
March 22, 2000	Regulation	NJDEP issued to Pennsville Township a waterfront development permit for removal of a municipal boat ramp and construction of a new ramp.	New Jersey
January 11, 1999	Grants/Leases	New Jersey issued a lease to William G. Bergmann, et al., renewed February 13, 2002 (the January 11, 1999 lease). By the terms of the lease, the property covered by the January 11, 1999 lease extends 35 feet waterward of the high water line, and is located offshore of what is now known as Block 1601, Lot 25, on North River Drive in the Township of Pennsville.	New Jersey

April 25, 2000	Grants/Leases	New Jersey issued a lease to the Township of Pennsville (the April 25, 2000 lease), by its terms covering property outshore of Block 3428, part of Lot 1, Township of Pennsville, at the foot of Dartmouth Road, that extends 95 feet offshore of the existing bulkhead and mean high water line (1999).	New Jersey
January 24, 2001	Grants/Leases	New Jersey granted an Assignment of Management Rights (lease) to the New Jersey Division of Parks and Forestry (the January 24, 2001 lease), covering property offshore of Block 5301, Lot 3, Pennsville Township, and within the twelve-mile circle. By the lease terms, the property subject to the January 24, 2001 lease includes a pier offshore of Block 5301, Lot 3, Pennsville Township that extends 350 feet waterward of the high water line into the Delaware River.	New Jersey

February 20, 2001	Regulation	NJDEP issued to Pennsville Township a waterfront development permit for installation of stormwater force main pipes, which were 113 feet long.	New Jersey
May 4, 2001	Grants/Leases	Delaware issued a subaqueous lands permit to DuPont Chambers Works located near Deepwater, New Jersey, by its terms allowing DuPont to dredge approximately 4,650 cubic yards of material from the Delaware River within the twelve-mile circle, to backfill existing elevations on a 0.71 acre site in the Delaware River, and to install a temporary sheet pile wall surrounding the proposed excavation in the Delaware River.	Delaware
May 10, 2005	Grants/Leases	Delaware Wetlands and Subaqueous Lands Section issued a twenty-year subaqueous lands lease and a water quality certification to Fenwick Commons, LLC ("Fenwick") in connection with a project to rehabilitate a dilapidated pier at the end	Delaware

		of west main street in Penns Grove, New Jersey. By its terms, the lease permits Fenwick to construct a 40 foot wide by 750 foot long pier, a 6 foot wide by 95 foot long aluminum gangway, a 28 foot wide by 120 foot long floating dock and breakwater, 6 support pilings, 1,255 linear feet of steel bulkhead and permission to fill 1,882 square feet of public subaqueous lands near Penns Grove, New Jersey. On May 6, 2005, counsel for Fenwick wrote to DNREC stating that "the issue as to the ownership of lands is in dispute as to the Riparian Grants from the State of New Jersey."	
August 10, 2006	Grants/Lease	New Jersey State Park Service applied to Delaware to renew its subaqueous lands lease for the Fort Mott pier. On December 19, 2006, a New Jersey official wrote to DNREC that the Park Service's lease application was "without prejudice" to New Jersey's position in this lawsuit.	Delaware

September 27, 2004	Regulation	British Petroleum ("BP"), through its wholly owned indirect subsidiary, Crown Landing, LLC, requested permission from DNREC's Wetlands and Subaqueous Lands Section to drill geotechnical test borings in the Delaware River in connection with a proposal to construct a liquefied natural gas ("LNG") terminal on the Delaware River. The proposed facility is commonly referred to as the "Crown Landing project" or "Crown Landing facility."	Delaware
December 7, 2004	Regulation	BP, through its wholly-owned indirect subsidiary, Crown Landing, LLC, applied to DNREC for a status determination under the Delaware Coastal Zone Act for the proposed Crown Landing project.	Delaware
January 7, 2005	Regulation	BP filed a Waterfront Development Application with the NJDEP's Office of Dredging and Sediment Technology.	New Jersey
February 3, 2005	Regulation	DNREC issued a status decision determining that BP's proposed project was a	Delaware

		prohibited "offshore bulk transfer facility" as well as a prohibited "heavy industry use" under the Delaware Coastal Zone Act.	
February 15, 2005	Regulation	BP filed an administrative appeal to the Delaware Coastal Zone Industrial Board ("CZICB").	Delaware
April 14, 2005	Regulation	CZICB affirmed DNREC's status decision determining that BP's Crown Landing project was a bulk product transfer facility prohibited under the DCZA. BP did not appeal that decision.	Delaware
July 28, 2005	Pleadings	New Jersey filed in the Supreme Court a Motion to Reopen and for Supplemental Decree in No. 11, Original, accompanied by a petition and brief in support thereof.	New Jersey

APPENDIX J
Table Comparing Similar Provisions in the New Jersey-New York Compact of 1834 and the New Jersey-Delaware Compact of 1905

New Jersey-New York Compact of 1834	New Jersey-Delaware Compact of 1905
Whereas commissioners duly appointed on the part of the state of New York, *and commissioners duly appointed on the part of the state of* New Jersey, *for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two states, have executed certain articles, which are contained in the words following,* viz:	*Whereas commissioners duly appointed on the part of the State of New* Jersey *and commissioners duly appointed on the part of the State of* Delaware, *for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two States, have executed certain articles, which are contained in the words following,* namely:
Article Sixth. *Criminal process, issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid*; or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the third	Article I. *Criminal process issued under the authority of the State of New Jersey against any person accused of an offense committed upon the soil of said State,* or upon the eastern half of said Delaware River, *or committed on board of any vessel being under the exclusive jurisdiction of that State, and also civil process issued under the authority of the State of New Jersey against any*

article; *and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters* within the exclusive jurisdiction of the state of New York, *unless such person or property shall be on board a vessel aground upon, or fastened to, the shore of the state of* New York, *or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of* New York.	*person domiciled in that State, or against property taken out of that State to evade the laws thereof, may he served upon any portion* of the Delaware River between said States from low-water mark on the New Jersey shore to low-water mark on the Delaware shore, except upon Reedy and Pea Patch islands, *unless said person or property shall be on board a vessel aground upon or fastened to the shore of the State of* Delaware, or the shores of said islands, *or fastened to a wharf adjoining thereto, or unless such person shall be under arrest or such property shall be under seizure by virtue of process or authority of the State of* Delaware.
Article Seventh. *Criminal process, issued under the authority of the state of* New York, *against any person accused of an offence committed within that state, or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid*, or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the fifth	Article II. *Criminal process issued under the authority of the State of* Delaware *against any person accused of an offense committed upon the soil of said State*, or upon the western half of said Delaware River, *or committed on board of any vessel being under the exclusive jurisdiction of that State, and also civil process issued under the authority of the State of* Delaware *against*

article; *and also civil process issued under the authority of the state of* New York *against any person domiciled in that state, or against property taken out of that state, to evade the laws thereof; may be served upon any of the said waters* within the exclusive jurisdiction of the state of New Jersey, *unless such person or property shall be on board a vessel aground upon or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.*	*any person domiciled in that State, or against property taken out of that State to evade the laws thereof, may be served upon any portion* of the Delaware River between said States from low-water mark on the Delaware shore to low-water mark on the New Jersey shore, *unless said person or property shall be on board a vessel aground upon or fastened to the shore of the State of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest or such property shall be under seizure by virtue of process or authority of the State of New Jersey.*

APPENDIX K
Docket of Proceedings Before the Special Master

Date	Filings
2005-07-28	Motion to Reopen and for a Supplemental Decree, Petition, Brief and Appendix in Support of Motion
2005-10-27	Brief of the State of Delaware in Opposition to the State of New Jersey's Motion to Reopen and for a Supplemental Decree
2005-10-27	Lodging for Brief of the State of Delaware in Opposition to the State of New Jersey's Motion to Reopen and for Supplemental Decree of the State of Delaware
2005-11-08	Reply Brief and Supplemental Appendix in Support of Motion to Reopen and for a Supplemental Decree
2005-12-28	Answer of State of Delaware and Motion for Appointment of Special Master
2006-01-04	Brief in Opposition to Delaware's Motion for Appointment of Special Master
2006-01-17	Reply in Support of Motion for Appointment of Special Master
2006-01-23	Order Appointing Ralph Lancaster as Special Master
2006-01-26	Oath of Ralph Lancaster
2006-02-06	Telephone Conference Transcript
2006-02-08	Case Management Order No. 1
2006-02-08	Case Management Plan
2006-02-10	New Jersey's List of Issues
2006-02-17	Delaware's Statement of Issues

2006-02-24	Case Management Order No. 2
2006-03-06	Delaware's Progress Report
2006-03-06	New Jersey's Progress Report
2006-03-06	Delaware's Notice of Service of Subpoena to BP America Production Company
2006-03-06	Delaware's Notice of Service of Subpoena to BP America, Inc
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